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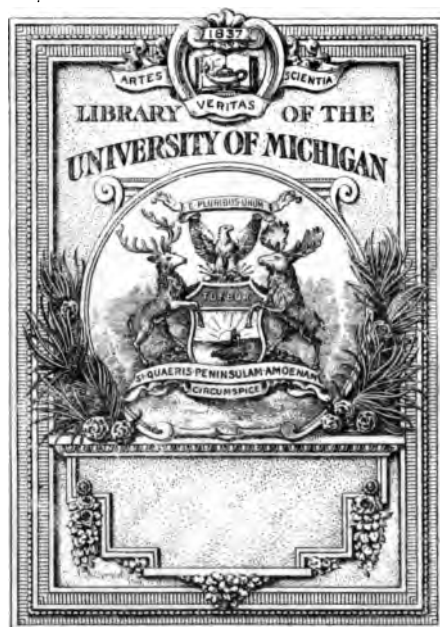
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THE GOVERNMENT OF THE STATE^{AND} NATION

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THE GOVERNMENT OF THE STATE AND NATION

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*A MANUAL
FOR THE SCHOOL AND THE HOME*

LYMAN
L. B. KELLOGG

FIRST PRINCIPAL STATE NORMAL SCHOOL AND
EX-ATTORNEY-GENERAL OF KANSAS

AND

A. R. TAYLOR

PRESIDENT STATE NORMAL SCHOOL OF KANSAS



BOSTON, U.S.A.
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1901

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PREFACE.

IN a law practice of nearly thirty years, including a term as attorney-general for the State of Kansas, Judge Kellogg has been employed in hundreds of cases embracing as great a variety of problems as usually come to the office of an American attorney. He has continually been impressed with the fact that the masses of the people are lamentably ignorant of the simple principles of common and statute law, and that much litigation and trouble could be avoided if the children in the public schools were instructed more carefully in the things that touch their every-day community life, and affect their ability to discharge the duties of citizenship. That our text-books and present methods are inadequate to the task is too clearly evident even to the ordinary observer.

President Taylor, as teacher and counsellor for young men and women for over a quarter of a century, has discovered many times over the lack of knowledge on the part of people of all ages concerning the acts that constitute offences against the law and the manifest innocence of many youthful and even adult offenders. He believes that parents and teachers are taking for granted too many things relating to civil affairs, with consequent misfortune to the individual and to the community and the State.

Both of the authors believe that civil affairs are not only legitimate subjects for study, but that their disciplinary and practical value is equal to that of the other branches included in the courses of study for the public schools. They believe that proper instruction in the range of subjects herein pre-

sented will not only increase the knowledge of what makes for good government, but will also increase the appreciation and reverence for the institutions of our country among all classes of people.

The treatment is necessarily brief in details, but is sufficiently comprehensive to include the provisions of law with which every citizen, youth or adult, should be familiar. The attempt has been made to present the theme in such a way as to help the student to understand the genius and the wisdom of the various forms of government and of the laws under which we live. Though in a few cases the legal phraseology may be less clear to young students than a paraphrase might make it, the economy of space and the acquaintance with legal forms of expression resulting, make the retention of the original desirable. Many terms in common use, and some technical terms, are not defined in the text or in a glossary, because the authors wish the students to learn the art of consulting the dictionary and other authorities and of helping themselves. They also wish to leave something for the teacher to do in the way of directing inquiry and investigation. The personal element that he will thus be able to introduce will prove stimulating and fruitful, giving the students a wider outlook and greater self-reliance in solving the problems that affect their community life.

The authors urge that the teacher call the parents into constant coöperation in the study of the different topics, provoking their free discussion day by day in the homes, and making the members of each household realize the vital relationship which each bears to the government whose blessings he enjoys. They believe that such a course will help the parents and children to understand each other better, and that the wiser and more sympathetic government of the home which will result, will have a most wholesome and far-reaching effect upon the problems of local, State, and National Government.

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PART I.

THE GOVERNMENT AND THE CITIZEN.

THE GOVERNMENT OF THE STATE AND NATION.

CHAPTER I.

THE KINDS OF GOVERNMENTS UNDER WHICH WE LIVE.

THE principal business in which the students who use this book are at present engaged is attending school. In a general way they realize the necessity of order and decorum in the schoolroom, and are quiet and studious, and conform to the requirements of the teachers and superintendent of the schools. They do this voluntarily, and because it tends to the general welfare of the school. But occasionally some one violates the proprieties of school life. He is wilfully tardy, absent, quarrelsome, neglectful of his studies, or in some other way violates the rules of the school. He now finds out that there is a power by which obedience can be enforced. Good conduct, heretofore voluntary, is now compulsory.

The power and authority to compel proper conduct in the school is called the government of the school. This power is exercised by the superintendent and teachers. It is derived by them from the board of trustees; and the members of the school board derive their power from the people of the school district, because of having been elected by them as such trustees. The school government is in this way traced back to the people of the school district, as the original source of its power.

2 The Government of the State and Nation.

In order to make the school practically self-governing, all that is needed is that each student shall do right and govern himself. When the students walk down the public streets of their city or town, they will observe that the streets and sidewalks are kept in order, and that the people are quietly attending to their own affairs of business or pleasure. Good order prevails; no one is quarrelling, fighting, or trying to injure any one else; and all are perfectly free to do, and are doing, as they please, so long as they do not interfere with the rights of others. But if any person becomes disorderly, or shoots at another, or tries to steal something, or in any other way disturbs the public peace or rights of the other citizens, a policeman or marshal promptly appears, and the offender is arrested and taken to the city prison. We thus discover that there is a power and an authority in the city to preserve order, punish wrong-doing, and thus enable the people to pursue their callings, and enjoy their rights and privileges as American citizens without molestation.

The Source of Power. — This power to protect the people is the government of the city. It is exercised by the mayor, city marshal, and policemen. These officers are elected by the people at the annual city elections, or are appointed by the board of aldermen, or city council, who derive their power to make such appointment by election by the people. We thus trace the government of the city, as we did the government of the school, back to the inhabitants of the city, as the ultimate source of power.

As we go on with this book it will be shown that there is also a township government, administered by a board of trustees elected by the people; a county government,

administered by a board of supervisors, or a board of county commissioners, elected by the people; a State government administered by the governor under the laws enacted for the State by the legislature; and that the governor and the members of the legislature are elected by the people of the State. There is also a government, for the entire Nation, called the National Government, administered by the President and his associated officers, under the laws enacted by Congress. The President and congressmen derive their powers from the people of the Nation. These different kinds of government under which we live will be more fully explained hereafter. All that we wish to have understood now is that all of the seventy-six millions of people that make up this great nation of the United States of America are now living under all these different governments which have been mentioned, and must obey all of them; and that all these different kinds and forms of government derive their power from the people, and are maintained by the people for the public good. At the same time that a person is a citizen of the United States and must obey its government, he is also a citizen of the State in which he lives and must obey its government; and at the same time he is also a resident of some particular county in the State and must conform to its government; and he is also a resident of some particular township or city in that county and must obey its government. He is entitled to the protection of all these different governments, and is one of the joint owners of them. As such joint owner, he is in part responsible for them, and should use his best efforts to improve and sustain them.

The Laws. — The rules and regulations of these differ-

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ent governments are called the laws. They are enacted by the people, through their representatives, and are made for their protection and benefit. These laws command what is right and prohibit what is wrong, and prescribe the punishment to be inflicted upon those who violate them. Most people obey the laws voluntarily, as students do the rules of school, knowing them to be necessary and right. But no one is excused from obeying the laws, because he may not think them necessary or right. All the citizens must obey the laws whether the laws do or do not meet their approval. And further, it is no excuse for the violation of a law that the citizen does not know that there is such a law. Ignorance of the law does not protect the citizen from punishment for its violation. In order to keep clear of danger it is therefore necessary to know what the laws are.

By reason of the complex, not to say multiplex, system of government in this country, a person by one wrongful act may come in collision with both the State and city governments, and be liable to be punished by both. For instance, if a person should in the public street of a town or city commit assault with intent to kill by shooting at another with a gun or revolver, it would be a violation of the criminal laws of the State for which the offender would be liable to be punished by the State government, and also at the same time a violation of the ordinance of the city prohibiting the discharge of firearms within the corporate limits, for which he would be liable to punishment by the city.

A person, in like manner, by passing counterfeit money, might subject himself to the penalties of the United States law for such an offence, and at the

same time and for the same act become a violator of his own State law and be subject to its penalty.

This is not in conflict with the humane principle of our American law that no person shall be twice punished or put in jeopardy for the same offence. In the cases we have mentioned, the person by the one act of shooting at another on the street commits two offences, one against the city government and one against the State. The second illustration is like the first in principle, the one act of passing the counterfeit money is an offence against the laws of Congress, and is also another offence against the State laws.

Laws not Oppressive. — We do not want you to get the notion that because of the multiplicity of laws and numerous kinds of government to be obeyed, the American citizen is oppressed by them, because it is not true. He is not overburdened or ground down by the laws, or by the government. We have a just right to be proud of the freedom which we enjoy. Our laws are as nearly just and right as human wisdom can make them. They are no more severe than is necessary for the protection of the citizens and the promotion of the general welfare. If a person peaceably attends to his own affairs, and respects the rights of others, he will not feel the heavy hand of the law laid upon him. It is only when he has done some wrong to the public or to some other citizen, or seeks redress for some wrong done to him, that he becomes fully conscious of the efficacy of the law.

If any particular law, upon trial, is found to be too severe, or to work an injustice to the citizen, it can easily be changed at the next session of the legislature if it is a State law, or at the next session of Congress if a United States law. This is true because in this country all the

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laws are made by the people, acting through their lawful representatives, and can be changed by the people at their pleasure, acting in the same manner.

Should it occur to you to inquire, why have so much government, and why have so many laws, the answer is: the laws are necessary for the guidance of the well-disposed citizens and to secure their liberty, and for the restraint of the few, who without them would become a menace to the peace of the community. The laws are, also, necessary for the protection of the property rights of the people, and for the security of the State and Nation. Blackstone's definition of law is "a rule of civil conduct prescribed by the supreme power in the State commanding what is right and prohibiting what is wrong."

The Beginnings of Government.—The American people make up a highly civilized community, and live under a free and enlightened government. Because of this, it is difficult for us to realize the condition of men in a savage state, or having a despotic government.

There are such people however. The Indians who formerly occupied this country, the tribal remnants of whom are still found in the Indian Territory, and the negroes of the interior of Africa are illustrations of people living in a savage state. But even with such people, the beginnings of government are found. The people are grouped together in tribes with headmen or chiefs in control.

The people are led in battle by the chiefs, and are governed by them in accordance with the savage customs and usages of the tribes. They have no written laws, no courts, and no judicial officers. But the customs and usages of the tribes have the force of laws, and they are rudely enforced by torture and violence.

Nations. — Nations are but larger groupings of people, and contain millions of men and women living under the same government, instead of hundreds, or thousands, as among the tribes. Some of these nations, like Great Britain, Germany, Italy, Russia, and Turkey, have a sovereign or monarch at the head of the government, who is, to a greater or less extent, in supreme control. Such nations are called monarchies, and the governments are called monarchical governments. In Russia this ruler is called the czar, in Germany the emperor, in Turkey the sultan, in England the king. These are but different names for the monarch exercising the powers of sovereignty. In England the power of the king is greatly restricted by the constitution and laws of the kingdom.

Our Government. — Our government is of an entirely different kind. It is not a monarchy, and we have no emperor. With us the supreme power is vested in the people in their collective capacity, and every citizen who votes, in the election of officers to make and execute the laws, exercises the attributes of sovereignty. The common saying that the American citizen is a sovereign, is not therefore very far wrong. He is not a king to the exclusion of others; but with the others he is the king; that is, he and they together have and exercise the kingly powers of government over the seventy-six millions of people, and the large extent of the earth's surface constituting the United States. Our nation is a Republic. Its form of government is democratic. In the language of President Lincoln this is "a government of the people, by the people, and for the people." In the Declaration of Independence it is announced that governments are instituted among men, to secure

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their inalienable rights, among which are life, liberty, and the pursuit of happiness; and that the governments derive their just powers from the consent of the governed.

QUESTIONS AND SUGGESTIONS.

[At the end of some of the chapters, under the above heading, will be found suggestive questions and topics, intended for the use of teachers and students, based upon what is written or suggested by the text of the chapter. It is not expected that the teacher will be confined to the questions here given; and not necessarily that these particular questions will be the ones used by the teacher. Some of the questions can be answered directly from the text of the chapter; others cannot. The object of these questions is to stimulate thought, provoke discussion, and cause reference to be made to other sources of information not found in this book. The references appended to each chapter will be found helpful for these purposes. The students are not required, and should not be permitted, to commit to memory the language of the text-book. In reciting it is far better for them to use their own language.]

What is meant by the government of a school? By whom is it exercised? From what source is it derived? In what way do the people of the school district govern the school?

Who constitute the school board in your community? When were the members elected? How long do they serve? Refer to the general statutes or school laws of your State, and find out and be ready to state the substance of what the school law says about the powers and duties of the school board.

Why ought the students in the school to be as nearly self-governing as possible? What is the remedy of the people if the members of the school board prove to be unsatisfactory, and do not faithfully perform their duties?

What is the condition of the public streets of your city or town as to cleanliness, good order, and the absence of disturbances of the public peace and quiet? What is the demeanor of the citizens to each other? What is the condition of your city as to the safety of its inhabitants and their property, by

day and by night? Do not overlook the fact that the self-governing habits of the people contribute largely to the general welfare and quiet of the city. Is the self-governing habit of the people sufficient for the preservation of good order, and the security of the citizen in person and property at all times? Why not? How is it supplemented and aided? What is the source of power for the city government? How do the people exercise this power? What is the remedy if the city government becomes bad?

State the different kinds of government under which the American citizen lives. To which of these various governments does the citizen owe his greatest allegiance? What are the laws? From whom do they originate? Who make them? Who are bound by them? Give Blackstone's definition of law. When and where did Blackstone live? What did he do to become famous? What is the remedy of the people if any particular law is found to be too severe or to work injustice to the citizen? What are monarchies? What kind of a government is our American government?

How much and what is required of each student, to make the school self-governing? Of each citizen, to make the city self-governing? Same question as to the State, and the Nation.

REFERENCES.

So far as possible, the students who use this book should have access to a copy of the General Statutes of the State. These are usually found compiled in one large book, published by the State, or under its authority, and sold at a price very little above cost. Five dollars is the usual price for a copy of the General Statutes. The book is about as large as Webster's or Worcester's unabridged dictionary. A copy of the General Statutes should be in the library of every school district, large or small, throughout the country.

If the school district will not furnish the General Statutes,

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and the teacher and students of the class in civil government cannot devise ways and means to supply a copy for their use, the students will find that every Justice of the Peace, and every county office at the court-house, and every lawyer's office in town, has one or more copies of the General Statutes. The owners will usually be perfectly willing to let any earnest boy or girl look up the law and find what the General Statutes say about any question coming up in the civil government class.

There are three other inexpensive books of great merit to which the students should have access.

One of these is Cooley's "Principles of Constitutional Law," published by Little, Brown & Co., of Boston, Mass., in their students' series. The price of this book is \$2.50.

The second is Flickinger's "Civil Government as Developed in the States and in the United States," published by D. C. Heath & Co., of Boston, Mass. The price is \$1.

The third book is "Civil Government in the United States, considered with Some Reference to its Origins," by John Fiske. This book is published by Houghton, Mifflin & Co., of Boston, Mass. The price is \$1.

There are other books of reference that would be extremely valuable for the students to examine as they may have occasion and time while studying this book. Some of the more important and accessible ones are given elsewhere. But if the teacher and students can do no more than have the benefit of the General Statutes of their own State, Cooley's "Constitutional Law," and Fiske's "Civil Government," they will be reasonably well equipped to make good use of this book, and will acquire much valuable information outside of it useful to them as citizens of this great American Republic.

CHAPTER II.

PERSONAL RIGHTS OF CITIZENS.

Protection to Human Life. — “Life, liberty, and the pursuit of happiness” are the great rights of men. The principal object of government is to secure them. This was shown at the close of the last chapter. The most important of these rights to a man is his own life. It is his most precious earthly possession. To save it when endangered, he endures the greatest hardships and performs the greatest labors, and for it is willing to sacrifice all else. When compared with life, wealth is nothing; place and power are nothing. Honor and love of country only are worthy to be weighed in the balance against it.

We should expect in a country like ours, where the laws are made for the benefit of the people, that the life of the citizen would be most carefully guarded and protected. It is so protected and guarded under our government. Next to treason, which is destroying or attempting to destroy the life of the nation, the greatest crime under our law is the wilful taking of the life of a human being. The name given to the crime is murder. The usual punishment for it is death by hanging. In a few States the punishment is imprisonment for life in the penitentiary. In the States of New York, Ohio, and Massachusetts, the punishment is death by electrocution.

The government provides the sheriff to hunt down

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the murderer and arrest him; the prison in which to keep him until he can be tried; the court with jury of his peers to try him; and upon conviction the government by its officers executes him, or imprisons him for life.

In addition to this protection, the law authorizes the citizen whose life is in danger to defend himself. He has the right of self-defence, and may use any weapon he may have, and all the force necessary to keep off the would-be murderer, even to the extent of slaying him. If his assailant is attempting to shoot and kill him, he may lawfully shoot and kill the assailant.

But in availing himself of the law of self-defence, the citizen must be careful to use no more force than is absolutely necessary to keep off his assailant and protect himself. If his foe desist and run, he then has no right to shoot and kill. And if he does do so, he himself becomes a murderer and subject to punishment, because his own life would not then have been in danger.

When the life of a citizen has been feloniously taken, it is not always easy to determine who is the murderer. The crime may have been committed in the darkness of night, or at a lonely place. No person may have heard the cry of the victim, and no one may have seen the murderer. In such cases, suspicion may fall upon the wrong person, and a citizen who is innocent may be accused of the murder. It is just as much the duty of the government to protect the innocent as it is to punish the guilty. The law, therefore, requires that whoever is arrested for the murder shall have the right to a fair and speedy trial, and, if innocent, to be promptly acquitted and restored to his liberty.

Personal Liberty. — Next to his life, the most impor-

tant possession of an American citizen is his personal liberty. He is entitled to come and go at will. He may remain at home or go elsewhere. He may travel from city to city, or from State to State, for business or pleasure, without asking or being required to obtain the permission of any one. He may change his residence from Maine to California, or from Florida to Washington, or leave the country entirely and go to Europe or Asia, and no one will forbid or interfere with his going.

Personal liberty includes freedom from arrest and imprisonment, except for crimes committed. It includes not only freedom of locomotion, but freedom from disfigurement and personal violence. Some of the laws intended to secure the personal liberty of the citizen are as follows:—

Every person who shall purposely and maliciously cut or bite the ear, or cut or disable the tongue, put out an eye, or slit, cut, or bite the nose or lip, or shall cut off or disfigure any limb or member, of any other person shall be guilty of the crime of mayhem, and punishable by confinement and hard labor in the penitentiary for a term of years, usually from five to ten years.

“Every person who shall, without lawful authority, forcibly seize and confine, or shall inveigle, decoy, or kidnap any other person, with intent to cause such person to be sent or taken out of the State, or to be secretly confined within the State against his will, or in any way held against his will, shall upon conviction be punished by confinement and hard labor, not less than five nor more than ten years.”

The foregoing paragraph is taken literally, and the

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one preceding it substantially, from the General Statutes of the State of Kansas. In all the other States there are similar laws as to these offences against the person. The language of the statute is used, so that you may, to the extent indicated, become familiar with the phraseology of the law.

The laws of all the States make it a penitentiary offence to administer to another person any poison with intent to kill such person; or to mingle any poison with any food, drink, or medicine with intent to injure or kill any human being; or to wilfully poison any spring, well, or reservoir of water. Assaults against the person of another, with or without beating, or wounding him, are made punishable by law.

And, generally, it may be said that the law punishes all wrongs and offences of whatever kind against the personal liberty of the citizen.

The Right to acquire and enjoy Property. — "Pursuit of happiness" is the language used to indicate the right of the citizen to engage in business. In the constitution of the State of Missouri for the phrase "pursuit of happiness" is substituted "the enjoyment of the gains of their own industry." The pursuit of happiness signifies more than the mere seeking after pleasure. As used in the Declaration of Independence and the constitution of the States, it includes the right to pursue, without let or hindrance, any lawful occupation or business, because by it the means for the attainment of happiness is obtained. Every one has this right under our government. A man can adopt any trade, profession, or business, and may work, or refrain from working, at any particular occupation as he may choose.

Strikes by laboring men are not unlawful, because no

man can be compelled to work against his will. Involuntary servitude, except as a punishment for crime, is forbidden by the Constitution of the United States. And the people have a right to pursue their happiness by quitting work when they please. But, on the other hand, while one or a hundred men have a right to stop working themselves, they have no right by force and violence to prevent others from taking their places and going on with the work, if those others are willing to do so, because those others have the same equal right to the pursuit of happiness that the strikers have. And if these workers think that it will be of benefit to them to take up the labor which the strikers have laid down, it is their right and privilege to do so. The courts of the United States, if called upon, will protect the new workers in this right, by commanding the strikers to refrain from interfering with them by force and violence.

The strikers, however, being citizens of this country and having equal rights with all others, are entitled to that freedom of speech guaranteed by the Constitution, and may lawfully, by fair argument and persuasion, and without force or violence or injury to property, talk with and persuade the new workmen not to fill their former places and not to go on with the work.

This is the substance of the law in regard to strikes as established by the highest courts of our country. A violation of the commands of the court results in the punishment of the offender. Without such power in the courts, to be enforced when necessary, the horrors of the Pittsburg riots of 1877 might often be repeated in this country.

Whether strikes are useful or not in settling disputes

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between capital and labor is another question. We have stated the legal rights of the parties as an illustration of one of the phases of the great right of American citizens to acquire and enjoy property.

Other Personal Rights. — In addition to the rights of the people and the means of protecting them already mentioned, great care has been observed in framing our American government to protect the people from the government as well as to protect them from each other. It is therefore provided that excessive bail shall never be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. With the exception of the death penalty for the highest crimes, practically the only punishment known to our American law is confinement in jail, or penitentiary, and moderate fines. Thumb-screws, the rack, branding with hot irons, the headsman's axe, the knout, drawing and quartering, and the diabolical tortures of the present day in China, are unknown under our government. Imprisonment in jail or State's prison with us is as humane and comfortable as any deprivation of liberty can be. The convicts are provided with suitable food and clothing, and the hard labor of the prison is no harder, and for no greater number of hours a day, than is usual among free laborers.

The death penalty is all that is left of the extreme punishments of the former days. Whether this also should be abolished, and imprisonment for life substituted, is a question upon which the people differ, although in a majority of the States public sentiment favors retaining the death penalty.

To further protect the citizen from the government, it is provided by our American law that no person shall be twice put in jeopardy for the same offence; that he

shall never be compelled in any criminal case to testify against himself ; that he shall never be deprived of his life, liberty, or property without due process of law ; that his private property shall not be taken for public use without just compensation ; and that the right of trial by jury shall be inviolate. All of the rights mentioned in this paragraph are of great importance. There is still another one that should be mentioned in this connection. It is provided that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated ; and that no warrant shall issue except upon probable cause supported by oath or affirmation and particularly describing the place to be searched, and the person or things to be seized.

If goods have been stolen, and the owner thinks the thief or some confederate has them secreted at his house, the owner ought to be permitted to search there for them, and he ought to be permitted to take back his own property, if it is found, and the person concealing the stolen property should be arrested. But so jealous is the law of interfering with the homes and rights of its citizens, that before there can be any such search and seizure there must be a complaint filed under oath, and the search and seizure can only be made under the sanction of the law, with all the formalities mentioned in the last paragraph. The search warrant is an order in writing, issued by the judge or justice of the peace, to the sheriff or constable commanding the search to be made. The person whose premises are searched has the right to require the officer to show his warrant before submitting to the search.

It is further provided by law that the people have the

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right to assemble in a peaceable manner, to consult for their common good, and to petition the government for the redress of grievances; and that the right of the people to keep and bear arms shall not be infringed.

In this country we have never maintained a large standing army. Prior to our war with Spain in 1898, the regular army consisted of only about twenty-five thousand men. Nowhere else in the history of the world has there been so large and important a nation as ours with so small a standing army. But the patriotism of the people is so great, that whenever war breaks out an army of volunteers is promptly enlisted for the occasion, and disbanded when the war is over. Large standing armies in time of peace are unnecessary in this government.

The right to the writ of *habeas corpus* cannot be suspended unless the public safety requires it in case of invasion or rebellion. By this is meant that whenever a person is imprisoned or restrained of his liberty, anywhere, or for any cause, he is entitled to have the legality of his restraint inquired into before a public magistrate, and if he is unlawfully held, to be at once set free. The writ by which the magistrate commands the sheriff or other person detaining him to bring the prisoner personally before the magistrate for this inquiry is called the writ of *habeas corpus*.

Ex post facto laws are prohibited by the Constitution. These are laws that make actions done before the passage of the law, and which were innocent when done, criminal, and provide a punishment for them. Such laws are abhorrent to our sense of justice; and if Congress or the legislature of any State should enact such a law, the courts would promptly declare it null and void, because in contravention of the Constitution.

Bills of attainder are also prohibited. A bill of attainder is a legislative act which inflicts punishment without a judicial trial.

It will thus be seen that in this government of ours the rights of citizens are fully protected. The enjoyment of these rights is so much a matter of course that we are likely to be unmindful of them. But many of these rights which we enjoy without thought and without effort on our own part, were obtained originally after many years of conflict and struggle between the people of England and their sovereigns. Magna Charta, the great charter of rights, wrested from King John of England in the year 1215, and the Bill of Rights passed by the English Parliament in 1689, in the time of William and Mary, gave to the English people some of the rights we have mentioned; they were brought to this country by our forefathers when they came to America as colonists of Great Britain. They have become ours by having been incorporated in the United States Constitution and into the constitutions of the several States.

The foundation principles of our government — that all political power is inherent in the people, and that the government is founded on their authority, and is instituted for their protection and benefit — were never before in the history of the world realized as they have been by the American people in the founding of this great nation. To be an American citizen and live under its flag is an honor and a privilege greater than to be the citizen of any other country in the world.

Before closing this chapter upon the personal rights of citizens, we desire to add a few words upon the law of self-defence. Any person who is assaulted by another in any manner may lawfully defend himself at

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the time, and use as much, but no more, force than is necessary to repel his assailant. This was explained when speaking of murder at the beginning of the chapter. If a person should attack you with his fists or with any weapon, you would have the lawful right to fight back and keep him off, but not to punish him after he was down. The right of self-defence stops with the safety of the assailed. If a man commits a personal injury upon you to-day, you have no right to seek him out to-morrow and commit a personal injury upon him. In such case you would become the criminal and be subject to the penalty of the law, no matter how much the assailant may have deserved the injuries which you had inflicted upon him. In other words, the law does not permit the citizen to inflict punishment for prior wrongs.

The remedy of the citizen is to make complaint to the proper law officer and have the assailant arrested, tried, and punished according to law.

QUESTIONS AND SUGGESTIONS.

What are the great rights of man as mentioned in the Declaration of Independence? What are the principal objects of government? In what manner is human life protected by our American government? State the law of self-defence in cases of attempted murder. What are the rights of a citizen arrested for murder? What is meant by personal liberty? How is it protected under our American law? What is mayhem, and how punished? State the law as to kidnapping. What is meant by the phrase "pursuit of happiness" as used in the Declaration of Independence and the constitution of the States? What are the rights of an American citizen as to his choice of a trade, profession, or business? State the law as to strikes of laboring men. Why ought strikes to be discouraged and avoided? Is

arbitration a better method of settling a dispute between labor and capital than a strike or lock-out? Why?

Forgery of a deed to land with the intent to affect its ownership was in the time of Queen Elizabeth a crime under the laws of England punishable by standing the criminal in the pillory, and having both his ears cut off, and his nostril slit and seared, besides forfeiting to the crown the profits of his lands, and perpetual imprisonment. What would you think if the legislature should enact such a law for your State? How would the people get rid of the law? What do you think of capital punishment for the crime of murder in this country?

State the law of self-defence as given at the close of the chapter. Why ought not a citizen who has been injured by another to have the privilege of meting out to him such punishment as he deserves? Is lynching justifiable when an atrocious crime has been committed?

REFERENCES.

Refer to Chapter VIII of this book for further information as to the law of homicide and offences against the persons of individuals.

Refer to the amendments to the Constitution of the United States, and the bill of rights in the constitution of your State, for a further enumeration of the rights of man.

See Cooley's "Principles of Constitutional Law," ch. XIII, for a comprehensive discussion of the personal rights of citizens.

CHAPTER III.

THE HOME AND SCHOOL GOVERNMENT.

THE American people are members of a civilized society. As such, they are grouped together into families, and then as citizens of their respective school districts, townships or cities, counties, States, and of the Nation.

In addition to their domestic life as members of the family and their citizenship, the people have numerous voluntary associations. They are, or may be, members of churches, benevolent and charitable societies, social and political clubs, literary and musical organizations, business and industrial corporations, and the like. But these are matters that do not come within the province of this book which discusses mainly the rights, privileges, duties, and obligations of citizenship.

The foundation of all good citizenship is laid in the home and school life of the people. Here are learned the first lessons in obedience to law and respect for the rights of others. There is a government, and there are laws of the school; and there is a government, and there are laws of the home.

Laws of the Home. — The parents have the custody and control of the children. They may require and enforce obedience to their commands by such rewards and punishments as are suitable to the ages and conditions of the children. The parents are required to furnish to the children food, clothing, and the shelter of

the home, and such opportunity for acquiring an education as their means will permit. It is the duty of parents to teach their children lessons of industry, business principles and methods, kindness, politeness, respect for others, cheerfulness, good nature, and obedience to rightful authority.

The children are required to obey their parents and others in rightful authority ; to assist in the household duties and in earning the means of livelihood so far as is suitable to their age, strength, and condition of health ; to be kind to their younger brothers and sisters, and respectful to their parents and the other members of the household ; to be cheerful, helpful, and willing ; to improve their opportunities for going to school and acquiring an education, and for acquiring knowledge of some useful occupation or business ; to be polite, courteous, and of good behavior at home and abroad.

Public Education. — The public school system of this country originated in New England. Massachusetts in 1647 enacted a law requiring every township containing fifty families or householders to forthwith set up a school in which the children should be taught to read and write ; and every township containing one hundred families or householders to establish a school in which boys might be fitted for Harvard College.

Here we have the origin of the common school and the high school, and education made compulsory and maintained by appropriations of public money.

This was at the beginning of things in this country, and before our present Constitution and government were in existence. The preamble to this old school law is here given as a specimen of the old-time use of language and an expression of the reasons for the enactment of the

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law: "It being one chief project of that old deluder, Satan, to keep men from the knowledge of the Scriptures, as in former times by keeping them in an unknown tongue, so in these latter times by persuading from the use of tongues, that so at least the true sense and meaning of the original might be clouded and corrupted with false glosses of deceivers; to the end that learning may not be buried in the graves of our forefathers in church and commonwealth, the Lord assisting our endeavours, It is ordained," etc.

The reasons mentioned, to be able to read the Bible, and that learning may be perpetuated, are as good now as then for the public schools. Add to these the additional reasons that the people may thus acquire a knowledge of their government, and the ability rightly to exercise the rights and perform the duty of citizens, and we have the entire argument justifying taxation and the expenditure of public money for the free public schools of this Republic.

The School District. — The entire country is divided into as many separate school districts as there are neighborhoods, so that no family will be so far from a school-house that the children cannot attend the school. In States where the township system of schools prevails, each township, instead of the separate school district, is the unit for the school government, which will now be explained.

Once a year the legal voters of the school district or township assemble, usually at the school-house, and hold an annual school meeting. At this meeting they decide upon the amount of money necessary to carry on the schools for the ensuing year, and by vote levy on all the taxable property in the school district a tax sufficient

to raise the amount of money agreed upon as necessary ; elect officers to manage and control the schools for the year, who are usually a board of trustees, consisting of a director, clerk, and treasurer. The voters at the annual meeting have the power to direct the school board to decide, or may themselves decide, as to the number of months in which school shall be taught during the year, the wages to be paid the teachers, and whether male or female teachers shall be employed. If these details are not decided upon by the people at the annual meeting, they are intrusted to the school board and determined by its members.

The people have the power by vote at the annual school meeting to provide the money by taxation, to build or purchase a school-house when needed, and to purchase land for a school site. In short, the people of the district have and exercise the powers of government in all matters relating to the schools.

The owners of every house and lot, of every acre of land, and of all personal property in the school district are required to contribute, by taxation, to the support and maintenance of the schools. It makes no difference whether the owner of property has children to send to school or not, he must still pay his part to maintain the schools. Every child in the district is entitled to attend the school, and when there has equal rights with every other child.

In cities and the larger towns, the entire city or town is the school district ; and the schools are under the control of a body of men, usually one or two from each ward, elected by the people, and called the board of education. In some cities in some of the States, however, they are appointed by the mayor and city council.

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The schools are supported by taxation of all the property in the city, and they are like the district schools in being absolutely free for all the children in the city; and all the children have equal rights and privileges in them.

The system of free common schools maintained by the taxation of all the property of all the people is so firmly established in this country, and is believed to be so necessary to the perpetuation and transmission of our principles of free government, that nobody now questions the right of taxation for this purpose.

Higher Education. — But how far the States should go in this work of providing a free education for the people is to some extent a debatable question. While every one admits that the government should provide the common schools free, some people object to its furnishing colleges and universities at the expense of the public, because so few of the children of the people go to college. They say it is taxing the many for the support of a favored few.

The better opinion is that the State universities, like those of Michigan, Illinois, Minnesota, Kansas, Missouri, and California, maintained by the State, are useful and necessary to round out and complete the public system of education, and are proper subjects of maintenance by public taxation.

State normal schools are properly maintained by the State because necessary to the efficiency of the public school system. Without well-trained and carefully educated teachers there can be no good schools. The usefulness and efficiency of normal schools for the professional training of teachers are conceded by all educators. The State of Massachusetts maintains eight of these professional schools for teachers. One or

more normal schools are found in every State of the Union.

More than one-half of all the people of the United States are engaged in agriculture. More than one-half of the many hundreds of million dollars' worth of American exports to foreign countries each year are made up of the products of farms and ranches. Corn, cotton, wheat, beef and pork, and their products are produced in this country largely in excess of the needs of our people, and find a market among the European nations and in the countries of the Orient.

No occupation of the American people responds more readily and profitably to scientific culture than farming. One of the great departments of our American government at Washington is the Department of Agriculture. The head of this department is one of the members of the President's cabinet.

In consequence of its importance to the people State agricultural colleges are maintained in many of the States as an essential part of the system of public education provided by the government for the people.

QUESTIONS AND SUGGESTIONS.

State the substance of the laws of the home, (1) as to parents, (2) as to children. In many of the States education is made compulsory, that is, parents are required by law to send their children to school, and are punished if they refuse or neglect to do so. How do you reconcile such laws with the laws of personal liberty mentioned in the last chapter? State the origin of our common school system. Do you think it right for the citizen who has no children to send to school to be taxed for the support of the schools in his neighborhood? Give your reasons for the opinion you have. What about

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school books ; ought the parents or the government to furnish them? If the government, what government, and how?

Do you favor or oppose taxation for the support of high schools and colleges? State universities? normal schools? agricultural colleges? What do you say about medical colleges? law schools? business colleges? schools of mines? art schools? What about the establishment of a great American university by the United States government?

Is there a State school fund in your State? From what source is it derived, and what is done with it? Have you a compulsory education law in your State? If so, what are its provisions?

Refer to the General Statutes of your State, and see what the provisions of the constitution are upon the subject of education. What State educational institutions have you in your State? Where are they located? How do they rank with similar institutions in other States as to attendance, means of support, and general excellence?

REFERENCES.

General Statutes and Histories of your State.

CHAPTER IV.

TOWNSHIP AND COUNTY GOVERNMENT.

Objects of Township and County Government. — In addition to providing for the public schools it is the duty of the government to promote the public welfare in every neighborhood by providing that the public peace shall be preserved, order maintained, crime prevented, public roads opened and kept in order, bridges built, the necessities of the poor provided for, the public health preserved, taxes levied and collected, public record of deeds and other conveyances of land kept, courts provided for the settlement of disputes among the people, administrators and executors appointed for the administration of the estates of those who die, provision made for the appointment of guardians to care for orphan children and their property, and for the abatement of public and private nuisances.

These are among the principal objects of local or neighborhood government in this country. In some of the States, notably in New England, most of these matters are attended to by the townships. But in the larger number of the States the people have provided for them by a combination of the township and county governments.

Town Meeting. — In the New England townships it is the custom for the legal voters of the township, and this means the male inhabitants over twenty-one years of age, to meet once a year at some central and conven-

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ient place, and talk over the township affairs, and by direct vote decide upon them for the ensuing year. The necessary township taxes are in this manner agreed upon and levied. This annual assemblage of the voters to transact the township business is known as the town meeting. Officers for the township are chosen at this meeting to serve until the next annual town meeting. As much as possible, however, of the public business for the year is transacted at the town meeting by the people themselves.

This system of home government by direct action of the people is in every way desirable; and it is at the foundation of our entire system.

Representative Government. — It would be inconvenient for all the voters of the county to get together at one time and place to transact the public business for the county, and impossible for them to transact the business intelligently, if assembled, because of their large number. No building would be large enough to accommodate them; and they could not hear one another speak or vote. As to the public business for the State or Nation, the method of direct voting would be manifestly impracticable. The people have, therefore, resorted to the method of intrusting the public business to certain of the voters selected by the people from among their own number, who are elected for short times only, and are clothed with authority to transact the public business for the people.

These officers are paid out of the public funds, and are required to keep a public record of their official acts. If they err in judgment, or do not prudently and carefully attend to their duties as such officers, the remedy of the people is to elect new officers to take their places.

But this cannot be done until the end of their terms. Until that time the people must suffer in consequence of having chosen poor officers.

If the officers are corrupt in the administration of the public business, and especially if they embezzle the public funds and apply them to their private use, the law provides for their punishment as criminals. A conviction for such an offence usually carries with it forfeiture of office in addition to the ordinary penalty imposed by law.

Officers of the Township. — The officers of the township are justices of the peace, constables, trustee, treasurer, clerk, assessor, road overseers, and overseers of the poor. In some States the township trustee in addition to his other duties is *ex officio* overseer of the poor, and in others he is *ex officio* the township assessor.

All of these officers are elected by the people at the annual elections held in the township. They each serve for one year and until their successors are elected and qualify, except that the terms for justices of the peace and constables are usually two or more years.

There are, ordinarily, two justices of the peace for each township, and two constables. In large and populous townships the number may be more than two.

Justice of the Peace. — The office of justice of the peace is an ancient and honorable one. Thomas Jefferson after having served as President of the United States retired to his home at Monticello in Virginia, and was by his neighbors elected justice of the peace of his township. He had been a good President, and he was a good justice of the peace. We get the office from our English ancestors. In England, to this day, it is held in high repute and frequently filled by citizens of noble

birth or of great wealth. In this country it is a very useful office, and should be filled by some citizen of the township of good character and approved integrity.

The justice of the peace is the judicial officer of the township, and when transacting his official duties exercises the functions of a court. He is a conservator of the peace, being the magistrate to prevent and punish the commission of crime. If one man beats, shoots at, or kills another, or a house is broken into, or a theft or other offence is committed in the neighborhood, the justice of the peace has the authority to issue a warrant for the arrest of the person suspected of the crime, and cause him to be brought before him for a public hearing and examination. The warrant is a written command signed by the justice requiring the constable to seize and take the offender and forthwith bring him before the justice. The accused person is entitled to see and read the warrant for himself before submitting to the authority of the officer. In case an offence is committed in the presence of the officer, he may arrest the offender at once and without a warrant. But the officer must without delay take the person before the magistrate and have complaint made and warrant issued.

The constable is the officer who serves the warrant and arrests the alleged criminal, and brings him before the justice. In serving the warrant the constable may call to his assistance as many of the citizens of the township as he thinks needful to assist in making the arrest. And any citizen when called upon is bound to aid the constable. To refuse to assist the officer, or to aid the prisoner to escape, would itself be a crime.

Upon the hearing before the justice, if he finds that the crime has been committed, and that there is prob-

able reason to believe the prisoner guilty, he sends the prisoner to jail to await his trial before the district or circuit court unless the prisoner gives bail that he will be present at the court for trial. Bail is an obligation in writing signed by the prisoner and his friends by which they agree to forfeit and pay to the public a certain sum of money named in the bail bond provided the prisoner fails to appear at court for trial.

When a minor offence has been committed, like petty larceny (which is stealing property worth less than \$20), or an assault without intent to kill, or a disturbance of a public meeting, the justice not only causes the arrest of the offender but tries him, and if found guilty punishes him, by fining him or sending him to the county jail for a term of, usually, from ten to thirty or sixty days. The justice of the peace is also the court to hear and try lawsuits between citizens in regard to their business matters, in cases in which the amount in dispute is small.

Township Board. — The township trustee, clerk, and treasurer constitute the township board, and have the general control and management of the public business and property of the township. The trustee presides at the meetings of the board and is the chief officer; the treasurer receives and pays out the public funds; and the clerk makes and keeps a record of the public business transacted. The road overseers have charge of the roads and highways, and keep them in repair by calling out the citizens to work on them, and by expending on them the money raised by the road tax.

Origin of the County System. — The county system of local government in this country had its origin in Virginia, as the township system had its origin in Massa-

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chusetts, to accord with the conditions and needs of the people.

In the New England colonies, the people occupied small holdings of land, and settled closely together in groups or congregations, and in small settlements, for the purpose of founding homes and enjoying the blessings of civil and religious liberty. The church and the school were with them from the earliest beginnings. These small settlements became the townships. The government was a pure democracy; every citizen was expected to attend the town meeting in person, and speak and vote for himself upon all questions affecting the local administration of public affairs.

In the Virginia colonies, the commercial element was present; tobacco raising on large plantations for shipment to the mother country for profit was the principal occupation; the land was parcelled out in large tracts, not infrequently many thousands of acres to a single individual; the people were not knit together in small neighborhoods or congregations, as in Massachusetts, but were more widely separated and scattered upon large plantations. The unit for local government naturally included a larger area than in New England. The English shire or county was the model adopted, instead of the English hundred or township, as in the Northern colonies. In these colonies it was manifestly impossible for the people of the entire county to get together for individual action, as in the case of the residents of a township. Leading citizens were therefore selected in the various portions of the country to go to the shire or county town, and vote for and represent the people of the county.

We thus have the origin in this country of govern-

ment by the people by agents or representatives. This system is called a representative democracy. It prevails generally throughout the United States, not only in the county government, but in the city, State, and national governments.

Township and County Systems Intermingled. — As the population increased and the public domain became settled, new States were formed, like Kentucky, Ohio, Michigan, Indiana, and Illinois, and the township and county systems of local self-government became intermingled, and both are found existing side by side, with the exception that the representative system of officers chosen by the people has superseded in the townships, outside of New England, the direct method of the voters assembling in person for the transaction of the township business.

In describing the county system of local government and showing how it is combined with the township method under modern conditions, the State of Kansas may be taken as a fair type of the county and township governments existing in nearly all of the States.

This State was settled largely by people from New England, and from the middle Western States of Ohio, Illinois, Michigan, and Indiana. Its school district government is the pure democracy of the New England township; its other local government is compounded of the county and township systems of Virginia and Massachusetts, the people governing, however, wholly through representatives elected by the people at the annual elections.

The officers of the county government are a board of county commissioners, consisting of three persons, whose terms of office are three years, so adjusted that

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one goes out and a new one is elected each year; a sheriff, county attorney, county clerk, county treasurer, register of deeds, probate judge, county surveyor, county superintendent of public instruction, clerk of the district court, and coroner.

The County a Body Politic. — The county itself is a body corporate and politic with the right to sue and be sued; to purchase and hold real and personal property for the use of the county; to sell and convey any real or personal estate owned by the county; to make all contracts and do all other acts in relation to the property and concerns of the county necessary for the exercise of its corporate and administrative powers.

The powers of the county as a body politic, or public corporation, are exercised by the board of county commissioners. Lawsuits for and against the county are brought in their name; and they have the care of the county property and the management of the business and concerns of the county.

Preservation of Order. — We will now consider some of the objects of the township and county government more closely. Usually the people are quiet and orderly, and the public peace is preserved without any action, or need for action, on the part of the officers. But sometimes the people become turbulent and excited, and resort to violence, for the redress of real or fancied wrongs. If a single individual becomes disorderly and resorts to violence, he is arrested and punished, or held under bonds to prevent a further disturbance of the peace by him. But sometimes the impulse to fighting and violence communicates itself to a crowd, and the people unite in a disturbance of the public peace. This constitutes a riot and endangers the public safety.

The law books define a riot as the assembling together of three or more persons for the purpose of doing any unlawful act with violence against the person or property of another. Sometimes that unlawful act is the summary lynching of a person who has himself committed, or is suspected of having committed, some infamous crime. Sometimes the riot is for the purpose of forcibly expelling some obnoxious citizen from the community. The riots in the city of New York, in 1863, were for the purpose of forcibly resisting the draft of men into the Union army by the national government during the time of the Great Rebellion. The Haymarket riots in Chicago, in the year 1886, were caused by the resistance of the anarchists to the lawful authority of the policemen of the city. The riots in St. Louis, in 1900, were caused by the efforts of the union labor workmen on a strike to prevent non-union labor men from operating the street cars. But whatever the cause, mob violence and riots are always wrong, and should be, and are, suppressed by the officers of the government.

Quelling a Riot. — The method of quelling a riot is for the sheriff or some other peace officer, in the hearing of the rioters, to command them in the name of the State to disperse and to depart for their homes or lawful employments. If they refuse to go, the sheriff calls to his assistance as many of the citizens of the county as may be necessary and arrests the rioters and takes them to jail, unless without such arrest they disperse and go to their homes or to their work. If necessary, the sheriff may call out every able-bodied citizen in the county to assist him in dispersing the mob. If, with the aid of the citizens of the county, he is unable to control the mob and preserve the public peace, he may call on the gov-

error of the State, who is authorized to call out the militia, and send armed soldiers to quell the riot. If the insurrection becomes too great for the power of the State to restore order, the governor of the State may call upon the President of the United States for aid in restoring the public peace. The President has authority to call out the soldiers of the regular army of the United States in sufficient numbers to restore order and maintain the public peace.

It is, of course, never necessary to call out many troops to suppress an ordinary riot. But the entire military strength of the State and the Nation can be called out, and the soldiers may lawfully shoot and kill the rioters, so important is it to the general welfare to preserve the public peace.

Commanding the rioters in the name of the State to disperse is sometimes called "reading the riot act." Such command is necessary before the sheriff and his posse are authorized to use force in dispersing the assembly; because you will remember that in Chapter II, on personal rights of the citizens, we found that among the rights guaranteed by the Constitution is the right of the citizens to assemble peaceably, and to exercise the right of free speech. It is when the assemblage is for the purpose of doing an unlawful act that it becomes illegal. If the assemblage disperses at the command of the sheriff or other peace officer, the riot ceases, and there is no occasion for violence.

Execution of the Laws. — The State makes the laws for the prevention and punishment of crime; but the execution and administration of them in each county devolve upon the county and township officers. When a crime has been committed, information may be given

to the justice of the peace of the township as already explained in this chapter, or to the county attorney or sheriff. When given to the county officers, the county attorney draws the formal charge, in writing, to the court, accusing the person alleged to be the criminal; and upon this charge or complaint a warrant is issued and placed in the hands of the sheriff. He arrests the prisoner, summons the jury and witnesses, attends the trial, and if the prisoner is convicted keeps him in the county jail to serve out his sentence, or takes him to the penitentiary if the conviction is for a felony.

The county attorney attends to the prosecution of the case against the prisoner at the trial, and is the lawyer for the State.

The judge who presides at the trial is elected by the people of the judicial district, or circuit, as it is called in many of the States; and the district or circuit is usually composed of several counties, although, in some cases, the judicial district is composed of only a single county.

Roads and Highways.—Every man's house is his castle, and his land is his own. By these expressions is meant that every owner of real estate is entitled to have and exercise complete power and dominion over it. He may order any person who comes within his house to depart. No person can, against his will, drive over his land, or make use of it to go from one place to another.

But inasmuch as it is a public necessity for people to travel about, and go from town to town, and for the farmer to have access to town to market his crops, and for the townsman to go into the country to transact business, the government undertakes to supply this

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public need by laying out and maintaining public roads between farms and from town to town, in all parts of the country. We are so accustomed to these roads that we use them scarcely ever thinking what a convenience and necessity to the people they are. It is difficult for us to understand what would or could be done without them : the permission of every land-owner to drive over his land would be required to enable a person to go from one part of the country to another ; and if the permission, through spite or prejudice, should be refused, the person would be helpless to go from his own locality to another.

The roads are usually fenced on each side, and are long, narrow strips of land, from forty to sixty feet in width, and many miles in length, extending throughout the country. They are free for all to use. They are furnished and kept in repair by the public, acting through the county and township officers.

When a road is laid out across a man's land, his consent to the road is not required. The public simply takes as much of his land as is necessary for the road, and he cannot help himself. If he tries to get his land back by fencing up the road, or if he interferes with the public in travelling upon his own land thus taken for the road, he becomes a criminal and subject to arrest and fine.

The taking of the land of the citizen for a public road, and permitting all the people to use it, is a taking of private property for a public use. The power to do this is vested in the people in their collective capacity as a government. It is called the right of eminent domain. Taxation and the right of eminent domain are two of the great suprême powers of government.

Taxation compels the citizen to pay into the government treasury a certain portion of his money for public use. By the power of eminent domain his individual property is actually seized and taken from him, and devoted to the use of the public.

In our second chapter we found that one of the rights guaranteed to every citizen of the United States was that his private property should not be taken for public use without a just compensation. In accordance with this principle, when a public road is laid out across a man's land, he is paid out of the public treasury for all the damage it is to him to be deprived of that portion of his land which is taken by the road.

Laying out a Road. — In order to show how carefully the rights of the citizen are protected, it may be well to state what must be done to lay out a road, because for its entire length somebody's land must be taken.

When the people living in a neighborhood think a new road is necessary, or desire to have the location of an old road changed, they sign and present to the board of county commissioners a petition for the road. The commissioners then send out the county surveyor with two disinterested citizens of the county, appointed for the purpose, to view the proposed road; that is, to go over the line, examine it, and report as to the public necessity of the road, the practicability of the route, and the damages to the land-owners. The land-owners are notified when the road viewers will come, and meet with them and present their claims for damages in case their land is taken.

If the report of the viewers is favorable to the road, the commissioners appoint a day to hear the petition. Those who favor the road, and those who oppose it,

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and the land-owners who claim damages, have the right to appear before the board of county commissioners, and they are heard for and against the road. Upon this hearing, if the commissioners decide for the road, they enter on the public records of the county a plan and survey of the road prepared by the county surveyor, with an order of the board declaring it a public highway, and instructing the road overseer in the township in which it is located to open it for public travel. The board also allows to each land-owner claiming damages such sum as is just, which is paid to him by the county treasurer. The bridges over the large streams are built by the county, and over the small streams by the township.

Caring for the Poor.—Care for the poor is another of the objects of the county and township government.

It is the duty, as it is the privilege, of every citizen to engage in some lawful work, occupation, or business, and to support himself and his family. What his business shall be, is left to the man's own choosing. He has the absolute right, as we have heretofore seen, to have and enjoy without molestation from others the fruits of his own industry. All trades, occupations, callings, and professions are open to him.

But misfortune may overtake him. His property may be lost; his health broken; and he be reduced to want. When this is the case, such is the regard for the individual citizen in this country, that when he becomes unable to earn his own living it is furnished to him by his county and township governments.

In each county a small tax is levied annually upon the property of all the people, to raise a fund for the support of the poor. A poor-house, usually located near

the county seat, and upon a farm bought for the purpose and owned by the county, is maintained, and here paupers are fed, clothed, and provided with a home. Families needing temporary relief are supplied by the overseers of the poor at their own homes. In every township and city there is some officer whose duty it is to extend help to the poor at the public expense. In the townships it is usually the township trustee, and in the cities, the mayor.

Transmission of Property by Will. — Not only is the citizen protected during his life, but his property and estate are looked after by the government after his death.

While living, a man may make a statement in writing of what he wishes to have done with his property after his death, and to whom he wishes it to go. This written statement is called a will. It must be signed by the maker in the presence of two, and in some States three or more, witnesses. The witnesses must sign their names to the will in the presence of the man who makes it, and in the presence of each other.

The will does not take effect until the death of the person who makes it, who is called the testator. He may at any time change his will by destroying the one first made and making another containing different provisions. After his death, the will still does not take effect and has no force until it is presented to the court of his county having what is called probate jurisdiction, that is, jurisdiction over the estates of deceased citizens, and is admitted to probate.

The judge of this court is usually called the probate judge; in New York he is called the surrogate, and the probate court is called the surrogate's court.

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When the will is presented to the probate judge, he issues a summons to the witnesses to the will to appear before him and prove the will, that is, to testify that they were present and saw the testator sign his name to the will, and that he was of sound mind, and under no restraint. If this proof is satisfactory to the judge, he makes an order, which is written out on the public records of the court, that the will has been duly proved and is admitted to probate. The will is then recorded at length upon the court records, and a person, called the executor, is appointed to see that the will is administered in accordance with its provisions, and the estate, after the payments of the debts of the testator, is turned over to the persons to whom the property is willed. The executor is usually selected by the testator and named by him in the will, but this appointment must be confirmed by the court before he is authorized to act as such executor.

Administration without Will. — When a man dies leaving no will, the law determines where his property shall go. First, his debts must be paid; then the property is divided between his wife and children. The widow has one-third, and in some of the States one-half, of the personal property, and what is called a dower interest in the land, that is, she has the use of the land with all its rents and profits during her life. The remainder of the personal property is divided equally among the children, the girls having the same share as the boys. Upon the death of the widow, the land is divided equally among the children. In Kansas the widow takes one-half of the personal property and one-half of the land absolutely. The law varies considerably in the different States as to the proportion of the estate

which goes to the widow. But in all the States the children are treated alike, and the widow and children together have all the property.

If the dead man has neither wife nor children, his property goes to his parents; and if they be dead, to his brothers and sisters, or next of kin. If he has no kindred, and has made no will, his property goes to the State. The law will not permit property to be left without some owner. When there is no will, the probate court of the county appoints a person, called an administrator, to care for the property, pay the debts out of it, and then distribute what is left to the widow and children or other heirs according to law.

When a man makes a will, he may dispose of his property as he sees fit. He may give it all to his wife; to one child, to the exclusion of the rest of his sons and daughters; to a stranger, in preference to any of his kindred. But the law imposes one restriction on him: he cannot by will deprive his wife of all the property; but he may cut off the children with nothing. By the laws of all the States, unless she consents otherwise, the widow is entitled to her choice between the provision for her contained in her husband's will, and what the law would give her from the estate if there had been no will.

Duties of Other County Officers. — The county treasurer collects State, county, township, city, and school district taxes, which have been levied on the property in his county, and pays the same out to the persons and officers entitled to the money.

The county clerk keeps the records of the proceedings of the board of county commissioners, makes out the tax rolls, and has the care of the road records, and generally performs the clerical work of the county.

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The register of deeds keeps the public record of all deeds and other instruments affecting lands, also bills of sale and mortgages of personal property.

The coroner inquires into the causes of the death of persons found dead in the county, under circumstances exciting suspicion of murder or manslaughter. This he does with the aid of a coroner's jury summoned by him for the purpose.

QUESTIONS AND SUGGESTIONS.

Have each of the students, as a written exercise, frame a set of questions to bring out the different topics contained in this chapter. Let a committee of three be chosen by the class from its members to look over the various sets of questions and select the one which they consider the best. Have the list of questions thus selected, with such additional questions as the committee may suggest, written out on the blackboard, and copied by the students into their note-books, and used for the review of the chapter.

REFERENCES.

For the New England Township and its Origin, see Fiske's "Civil Government," pp. 16-47; and for the County, see Flickinger's "Civil Government," pp. 189-201, or Fiske's, pp. 48-78.

See your General Statutes for further information as to Roads and Highways, Care of the Poor, and Wills.

Consult the Appendix, Civil Government of your State, for a more detailed statement of the powers and duties of the county officers.

CHAPTER V.

THE CITY GOVERNMENT.

Urban and Rural Population. — About one-third of the people of the United States live in the cities and towns; two-thirds of them in the country. The urban, or city, population is increasing more rapidly than the rural population. This is explained by the fact that in recent years more people have left the country for the towns than have gone from the towns to the country, and that a majority of the immigrants to this country remain in the cities. Whether the crowding of the people in the cities is conducive to the general welfare, may well be doubted. But the people more and more choose to live in the cities. The American cities have grown wonderfully in population and wealth since the organization of the United States government, particularly in the last two decades. At the time Washington was inaugurated as President, Philadelphia was the largest city in the Union, having a population of 42,000; New York had 33,000; Boston had 18,000; Baltimore's population was 13,000; and Brooklyn was a small town of only 1600 people. There was no Chicago; no St. Louis; no San Francisco. In 1840 the population of Chicago was 4000; now it is a city of over one and a half millions.

With the exception of London, our city of New York is now the largest city in the world. Its population is three and a half millions, more than that of many of the States, and as much as the entire United States at the time of the adoption of the Constitution. Philadelphia

has more than a million and a quarter inhabitants; Boston, St. Louis, Baltimore, have about five hundred thousand each. In nearly every State there is one, and in some States more than one, large commercial city. Massachusetts has Boston; Pennsylvania has Philadelphia and Pittsburg; Ohio has Cincinnati and Cleveland; Illinois has Chicago; Wisconsin has Milwaukee; Missouri has St. Louis and Kansas City; California has San Francisco.

In every State there is a large number of towns and cities with populations ranging from ten to twenty thousand people. In Massachusetts there are over fifty such towns and cities; in Ohio nearly as many.

In the very large cities like New York, Chicago, Philadelphia, and Boston, the city government is more elaborate and complex than the city government described in this chapter, although its general framework is substantially the same.

Officers of the City. — In all American cities the chief executive officer is the mayor. He is elected by the people, and his term of office is one, two, or three years, varying in the different States. He presides at meetings of the city council, or board of aldermen, appoints subordinate officers of the city, and with the councilmen is charged with the responsibility of managing the affairs of the city.

In each ward of the city are elected one or more councilmen, or aldermen, as they are sometimes called, who with the mayor make the rules and regulations, known as city ordinances, by which the city is governed.

The city council meets in regular session one or more times a month for the transaction of the public business and the enactment of city ordinances.

The chief of police, or city marshal, as he is sometimes called, is the officer to whom is intrusted the duty of preserving order and making arrests for violations of the city ordinances. He is assisted by as many policemen as may be necessary.

Rules and Regulations in Cities. — People who live in the country are wholly free from many rules and regulations of a minor character to which the residents of the city must conform. Here are some of the usual regulations prescribed by the city ordinances:—

Dogs kept in the city must be registered, license tax for them be paid, and each must wear a collar with a tag attached, showing the registration.

No swine are permitted to be kept, a hog pen being a nuisance in a city.

Fast riding and driving in the public streets are prohibited.

The carrying of concealed weapons is made an offence.

The discharge of firearms within the city, except in case of self-defence, is prohibited.

Throwing stones, bricks, clods of clay or other hard substances in the public streets, or at any house, building, vehicle, or at or toward any person, is prohibited by ordinance.

The throwing of waste paper or other refuse matter on the sidewalk or out in the street is prohibited.

In some cities what is called a curfew ordinance is in force, by which children under a certain age, usually fifteen years, are not permitted to be on the public streets after nine o'clock at night, unless accompanied by parents or guardians.

Spitting on the sidewalks is also prohibited in some cities, so minute are the regulations.

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Lighting a pipe, cigar, or matches in any barn, stable, or other building containing hay, straw, or other combustible materials, is forbidden by ordinance.

Appearing in any public place in the city in any dress not belonging to his or her sex, or in a state of nudity, or in any indecent attire, is an offence.

The leaving open of any cellar door or grating, on the street whereby a person may be in danger of falling into the cellar or opening, is an offence.

It is made unlawful for three or more persons to sit or stand idly, or congregate together upon, and obstruct any sidewalk or street, or in front of any store or place of business in the city; and in such case a failure to move on and cease to obstruct the sidewalk, or front of a store, when requested by a policeman or the owner of the store, is made a misdemeanor and punishable by arrest and fine.

The making of loud or unusual noises, the use of profane and obscene language, or language calculated to provoke a breach of the peace, and intoxication on the street or in any public place, are all offences against the city ordinances.

These are illustrations of the rules and regulations found useful and necessary for the public quiet and general welfare in cities.

The graver offences, like homicide, burglary, arson, robbery, theft, and the like in cities, are provided against by the State laws. Whoever commits crime under the State laws in a city is liable to arrest by the sheriff, and trial and punishment the same as if he committed it in any township or in the county outside of the city.

The offences against the ordinances are tried and punished by the police court of the city.

Powers of the City. — The city is a public municipal corporation. It has the right to sue and be sued; to purchase and hold real and personal property for the use of the city, and to sell and convey the same; and to do all other acts in relation to the property and affairs of the city necessary to the exercise of its corporate or administrative powers.

Its powers are exercised by the mayor and city council. The mayor and city council have power to levy and collect taxes on all the taxable property in the city for the expenses of the city; to open and improve the streets, avenues, and alleys; to build sidewalks, bridges, and culverts, and construct sewers within the city; to restrain, regulate, and suppress tippling shops and gambling houses, and all kinds of public indecencies; to establish market-houses and market-places, and to regulate and govern the same; to make regulations to prevent the spread of contagious and infectious diseases; to provide and contract for waterworks, electric light, and gas plants for the purpose of supplying the city with water, light, and gas for city and domestic use; to establish and maintain public libraries and reading rooms; to establish and maintain a fire department; and, in general, the mayor and council have power to do all that is needful to promote the general welfare of the city and its inhabitants.

Municipal Franchises. — Great scandals have arisen in recent years in some of the cities out of the granting of valuable franchises relating to the occupancy of the streets by car lines, telephone wires and poles, gas mains, electric lights, and water-pipes. Many corporations and individuals have grown enormously rich by reason of these great privileges granted by the municipi-

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palities. In granting franchises for these public utilities, the tendency now is to require the persons or corporations to whom they are granted to pay into the public treasury of the city a certain percentage of the profits accruing from the franchise.

In some of the cities the franchises for such public utilities as water, gas, and electric lights are retained by the city, and the city owns and operates the plants, and retains for itself all the profits.

The Future of City Governments. — Much is said of inefficiency in city governments, of ring rule and of corrupt practices in the management of public affairs in the large American cities. Considering the rapid growth of the cities and the consequent necessity for providing new, and enlarging old, public works and municipal improvements, and also the necessity of raising and expending vast sums of public money for these improvements, it is no wonder that abuses have crept into the city governments, and that there may have been at times waste and mismanagement. But we believe that our American system of government will be found as well adapted to city as it has been to country life, and the management of the affairs of the States and the Nation. We often abuse our privileges of free speech and of a free press, and criticise our public officials more severely than the facts warrant. But with due allowance for such defects in our municipal governments as may exist, it is clear that a bright future for our cities is assured.

QUESTIONS AND SUGGESTIONS.

Who is the mayor of your city? When elected, and when does his term of office expire? What political party is in con-

trol of the city government? How many wards in the city, and their location and boundaries? How many aldermen or city councilmen from each ward, and when do their terms of office expire? The meetings of the city council are public. Have you ever attended one? Appoint a committee from the class to attend a meeting of the council, and report to the class what business was transacted, and how it was done. Plan the visit to the council so as to be present at a meeting when some ordinance is to be enacted.

Organize from the class a mayor and city council by election by its members, and go through the forms of the enactment of an ordinance.

What is the source of the water supply of your town? Is it furnished by the city, or by some private corporation? How is it with gas, and electricity? Do you favor or oppose city ownership of the public utilities of waterworks, gas and electric light plants, and street cars? Give reasons for your opinion.

REFERENCES.

In nearly all cities the City Ordinances are compiled and published in pamphlet form by the city, and sold for fifty cents or a dollar. Buy or borrow from the city clerk's office a copy of the city ordinances for the use of the class. It will be of great interest to the teacher and students.

Read in connection with this chapter Fiske's "Civil Government," pp. 99-139, or Flickinger's, pp. 183-189.

CHAPTER VI.

THE STATE AND NATIONAL GOVERNMENTS.

WE are now ready to take up the study of the State and National governments. We have learned that in affairs of the school district, the township, the city, and the county, the powers of government are vested in the people; that they exercise this power directly in the school district, and in the New England townships, and indirectly, that is, by agents or officers chosen to act for them, in the cities and counties and townships outside of New England. We shall now see that in the larger affairs of the State and Nation the same principle holds good. The people are the source of power. By an enlarged system of representation the people govern themselves in matters of the State and Nation.

Legal Voters. — It should be mentioned that whenever in this book reference is made to the election of officers by the people, or the exercise of the powers of government by the people, the phrase "the people" means the legal voters. Children are excluded because they are not supposed to have sufficient maturity of mind. The insane and those *non compos mentis* are excluded for obvious reasons. Those citizens who have so far forgotten their duties and obligations as to become criminals and be sent to the penitentiary, are excluded because they are considered to have lost their rights as citizens by having violated the laws. Aliens living in this country are excluded, because this is not their government. An exception is sometimes made in favor

of aliens who have declared their intention to become citizens, by permitting them to vote before having fully completed all the requirements of the naturalization laws.

A legal voter, in nearly all the States, is a male citizen over the age of twenty-one years, who has been an inhabitant of the State for a specified time, usually six months or a year, and of the ward or township in which he offers his vote for thirty or sixty days. The voter used to be a white male citizen. But the Fifteenth Amendment to the Constitution, adopted since the Civil War, provides that the rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. Negroes are therefore entitled to vote the same as whites.

The Constitution. — In each of the States, and for the Nation at large, there is a written constitution adopted by the people. The Constitution of the United States is the highest law known in the American system of government. Any law that Congress enacts which is found to be in conflict with the Constitution is null and void. Any provision in the constitution of any State, or in any law enacted by the legislature of any State, which conflicts with the Constitution of the United States, is also null and void.

Remembering that all the powers of government are vested in the people, it will perhaps help us to understand the relations between the State and National governments, if we try to think what the people would do if it were possible to blot out the government and make a new one.

Suppose a single person to represent the people and

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to have in his possession all the powers of government. How would he sort them out, and what would he do with them? Imagine, if you can, the Nation, the States, the counties, the townships, the cities, and the school districts standing around and waiting for him to distribute the powers of government to them and set them at work.

In sorting over his bundle he would, in a general way, find two sets of powers: 1st, those relating to the every-day life and domestic affairs of the people, considered as residents of the State, such as those relating to the private business of the citizens, protection of property in each locality, the education of the children, preservation of order in each community, protection of life, liberty, and the individual pursuit of happiness by the people. 2d, those relating to the affairs of the country at large, such as the right to regulate commerce with foreign nations, to declare war, and make treaties with foreign powers; to provide and maintain a navy; to establish post-offices and post-roads; to pay the debts and provide for the common defence and general welfare of the United States.

The State and the Nation. — This last class of powers he would unhesitatingly hand over to the national or general government. The powers relating to the domestic affairs he would hand over to the States, saying to them, attend to these matters in your own way, and parcel out such of them as may be needful to the counties, townships, cities, and school districts in your respective States.

This is exactly what was done by the fathers of the country in framing their national constitution and the constitutions of the States.

In the great essentials of government all these constitutions are alike. The three great powers of making the laws, executing the laws, and interpreting and applying the laws are kept separate and intrusted to different classes of officers, so as to be a constant check upon each other. The citizen owes allegiance to both the State and the Nation; and is bound by the two constitutions, National and State. His first allegiance, if one is first and the other second, is to his Nation, then to his State. Some people put it the other way, and say his first duty is to his State, then to the United States. This cannot be true, because, if there is any conflict between the two, the State constitution and State laws must give way to the United States Constitution and laws, which are the supreme laws of the land. But as the State constitution and laws are framed so as not to conflict with the Constitution and laws of the United States, except in rare instances, and when they do are promptly corrected or treated as null and void, it is fair to say that the allegiance of the citizen to the two constitutions should be equal. There is properly no first and no second. Both are first; and both, taken together, constitute one complete American system of government.

The Laws.—In this country where the original powers of government are lodged in the mass of the people, all of whom are politically equal, and no one of whom has authority to speak for his neighbor, there must be some method of finding out and expressing the will of the people. If I am to obey this great sovereign of seventy-six millions of people, the sovereign must have some way of telling me what to do. The government does tell me; it is done by means of laws. The

laws are the rules and regulations adopted by the sovereign power for the guidance of the people. Those who govern their conduct by the laws are law-abiding citizens. Those who disobey them are criminals, and are punished for their disobedience by fine or imprisonment, or by both fine and imprisonment. In each State there is a chosen body of men, elected by the people, whose duty it is to make the laws. When the laws are made, they are reduced to writing and printed in volumes, called statutes, and distributed, so that the people by examining the statutes may know what they are. In the next chapter the manner in which laws are enacted will be explained; and you will observe the great care taken to have only just laws passed, and to have them carefully worded, so that their meaning shall be plain, and not liable to misconstruction.

The Legislative Department. — The department of government in the States and in the Nation charged with the power to make the laws is called the legislative department. In the States it is vested in the legislature, consisting of two bodies of men meeting at the capital and working together, known as the House of Representatives and the Senate. For the Nation, the legislative department is composed of the Congress of the United States, consisting of two bodies of men, meeting at Washington, known as the House of Representatives and the Senate.

The Executive Department. — No matter how just the laws or how plain their meaning, they are good for nothing unless enforced. It is just as important to execute the laws as to make them. Our sovereign, the people, ought to furnish the means to enforce the laws.

This it has done by providing in each of the States and for the national government a set of officers whose duty it is to administer and enforce the laws. These officers constitute what is known as the executive department of the government.

In each State the governor is at the head of this department. In him is vested the supreme executive power of the State, and it is his duty to see that all the laws of the State are faithfully executed.

The executive power of the nation is vested in the President. It is his duty to execute the laws of the United States enacted by the Congress. For this purpose he is made commander-in-chief of the army and navy, so that the entire military strength of the nation is at his disposal for the faithful execution of the laws in case of insurrection or rebellion against the government.

The Judicial Department. — Notwithstanding the care exercised by the legislatures of the States and by Congress, sometimes laws are passed which upon careful scrutiny are found to be in conflict with the Constitution, or in excess of the powers granted to Congress or the legislature, or whose language is such that it is open to two or more interpretations, and it is doubtful which one of the interpretations is right. It is also often a question whether certain acts do or do not come within certain penal provisions of the statutes. The result is that controversies arise in the administration and execution of the laws. It is therefore necessary for some officers to be intrusted with the power to apply and interpret the laws of the States and of the Nation.

This is the business of the courts. That portion of the supreme power of the government intrusted to them

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is called the judicial power; the department of the government exercising it, the judicial department.

This division of the great powers of government into the three departments of legislative, executive, and judicial is one of the most striking features of the American government. Each of these departments is made of coördinate rank with the others. In its own sphere, each is supreme. The executive department cannot dictate to the legislature what laws shall be passed. The legislative department cannot dictate to the judicial department how it shall interpret or apply the laws.

Checks and Balances. — Each of these departments is a check upon the other. The law-making department is the most powerful in the State and in the Nation, because Congress directs the policy of the Nation, and the legislatures of the States control and regulate the conduct of the citizens and exercise the great powers of taxation and eminent domain, and, except for the checks which will now be mentioned, the legislative department would have the complete mastery, and might enact statutes oppressive to the people, and subversive of the rights of the citizens, for the free enjoyment of which the government was instituted.

Congress is limited in the exercise of its great powers of legislation by the written Constitution of the United States. It can pass no law in contravention of that great instrument. The legislatures of the States can pass no laws in conflict with either the constitution of the State or the Constitution of the United States. Congress need pay no attention to the constitution of any State; but the legislature in each State must pay attention to both the National and State constitutions. Congress has one mas-

ter, and the legislature two, in the written constitutions of this country.

It is the judicial department that decides whether the laws enacted are or are not constitutional; that is, whether they are in accord with, or in contravention of, the constitution. And everybody is bound by the decision. If the Supreme Court at Washington decides that a law of Congress is unconstitutional, Congress and the entire Nation bow in submission, and the law from and after the decision is void and of no effect. In the same way, a law enacted by the legislature of any State may be set aside and held for naught by the supreme court of the State, when in conflict with the constitution of the State or of the Nation.

The executive department also has a check upon the legislative department in this: every bill passed by Congress before it can take effect as a statute must be presented to the President for his examination. If he approves the measure, he affixes his signature, and it then goes into effect as a valid law. If he does not approve the bill, he declines to sign it, and sends it back to the branch of Congress in which it originated, with a statement of his objections. This is called vetoing the bill. This veto of the President kills the bill, unless both houses of Congress again pass it, and by a two-thirds vote. If Congress does this, it then becomes a law, notwithstanding the President's veto.

In like manner, the governor in nearly every State has a veto upon the bills passed by the legislature; and the legislature, in like manner, may pass the bills over the governor's veto. So universal is this check of the executive upon the legislative department, that we find it not only in the State and Nation, but also in the

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municipal government; that is, the mayor has a similar veto upon the enactment of the city ordinances by the board of aldermen or city council.

The executive has a check of this sort upon the judicial department: If a person is convicted and sentenced by one of the national courts, the President may, if he thinks the punishment is too severe, or that the prisoner has been wrongfully convicted, issue to the convict a pardon, or reprieve. A pardon sets him free. A reprieve postpones or shortens his imprisonment. The governors in the States have this power to pardon or reprieve persons convicted of violating the State laws. And mayors in the cities may also pardon or reprieve offenders against the city ordinances.

While the three departments of government operate as checks and balances against each other, it should also be mentioned that the legislative, executive, and judicial departments, to a certain extent, assist each other in the discharge of their several duties.

The President is required by the Constitution to give to Congress information on the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. A similar provision is found in the constitutions of the States, making it the duty of the governor to give information to the legislature, and recommend such laws as he deems useful or necessary.

The custom is for the President, at the opening of Congress, which is in December of each year, to prepare and deliver to Congress his annual message, which is usually a long document, and contains a report of what has been done during the year in all the bureaus and departments of the executive branch of the govern-

ment, our relations with foreign nations, and the recommendations of the President as to needed legislation.

In each State, at the assembling of the legislature, the governor also sends to the Senate and House of Representatives his annual message as to the affairs of the State. The annual messages of the President and governors are printed in the newspapers, and also by the National and State governments, and distributed, so that, while the chief executive is informing the legislative department of the condition of the country and recommending needed legislation, all the people are being informed of the same matters.

We have heretofore seen that the President and the governors take part in legislation to the extent of examining and signing or vetoing the laws as they are passed.

The executive department assists the judicial department by enforcing its judgments and decrees, whenever this becomes necessary.

The judicial department assists the executive by administering justice and by the force of its judgments and decrees.

The legislative department assists the executive by enacting new laws as needed for the preservation of the public peace and the punishment of those who interfere with the proper and orderly administration of the various departments of the executive branch of the department.

REFERENCES.

Cooley, "Principles of Constitutional Law," chs. III and VII.

Fiske, "Civil Government," ch. VII.

Flickinger, "Civil Government," ch. VI.

CHAPTER VII.

STATE LAWS — HOW ENACTED.

THE legislature in each of the States consists of two deliberative bodies, usually called a Senate and a House of Representatives. The members of both bodies are elected by the people. The term of office of the senators is usually twice as long as that of the representatives. Four years for the senators and two years for the representatives is the length of the term in most or all of the States having biennial sessions of their legislatures; two years and one year, respectively, when annual sessions are held. But this varies in the different States. The Senate is the smaller body, its membership being usually about one-third that of the House of Representatives.

The Congress of the United States meets every year, the session convening the first Monday in December. The State legislatures convene annually in some of the States, biennially in others, at the various State capitals. No law can be enacted without the sanction of both the Senate and the House of Representatives.

For a better understanding of how the laws to which we must submit are made, let us suppose that the members of the legislature have been duly chosen by the people, and that the day fixed by law for the legislature to assemble has arrived, and that the members elected are present. We will step into the House of Representatives, it being the larger body, and see what is done.

After the members are sworn in, they elect a permanent presiding officer for the session. This officer is called the speaker. In addition there are elected or appointed a chief clerk and his assistants, a sergeant-at-arms to preserve order in the assembly room, doorkeepers, a chaplain, messengers, and pages. All is then ready for the business of the session to proceed. The House being now organized, and the standing committees having been appointed by the speaker, we are ready to proceed with the enactment of a law. Let us suppose a member to be from Sumner County, and that the people of one of the cities of his county, contemplating the establishment of a system of waterworks for the city, have discovered that one section of the law under which they are proposing to act would need to be changed to make it applicable to their town, and that the member has prepared a law to change the section in question, and has it ready for the action of the legislature.

In the order of business for each day a certain time is set apart for the introduction of bills, each proposed law being called a bill until it has received the sanction of both houses of the legislature and the signature of the governor, and has in fact become a law.

When this order of business is reached, and not before, nor after, except by the unanimous consent, our member is entitled to present his proposed law. He rises in his seat and calls out "Mr. Speaker." This is to obtain the recognition of the presiding officer, and it is necessary, because without this recognition a member can do nothing. The speaker recognizes our member by saying, "The gentleman from Sumner"; which is equivalent to an announcement to the House that the

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member from Sumner County is now on the floor, and is entitled to the attention of those present, and that the speaker has recognized his right to be heard. Our member then says, "I desire to introduce a bill," and hands the one he has prepared to one of the pages, who runs with it to the speaker's desk, and gives it to the chief clerk.

The speaker then says, "The gentleman from Sumner introduces the following bill, which the clerk will now read." After numbering the bill, the clerk reads its title, as follows: "An Act to amend Sec. 5 of Chapter 100 of the Laws of 1895, being an Act to authorize cities of the second class to establish and maintain a system of waterworks." The speaker then says: "The first reading of the bill. It is referred to the committee on municipal corporations."

After reading the bill by its title, the chief clerk hands it to an assistant called the journal clerk, who makes an entry in the record of that day's proceedings about as follows:—

"January 10, 1900. House Bill No. 10, introduced by Smith of Sumner; read the first time, and referred to the committee on municipal corporations."

After making this entry the journal clerk passes the bill on to the docket clerk, who makes a similar entry in his docket or ledger—in which a page is reserved for this bill—and after enclosing it in an envelope puts it in the appropriate pigeon-hole in his office. Within twenty-four hours after the close of the day's session the docket clerk sends the envelope containing the bill to the chairman of the committee to which it was referred, and takes a receipt from the committee chair-

man for it. He then makes a second entry in his docket something like this:—

“January 11. Delivered to Chairman Com. Munic. Corp. per receipt on file.”

Before the bill is considered by the committee, it is engrossed, that is, a copy is made by the engrossing clerk in a large, legible handwriting, or a good type-written copy is made.

While our bill is awaiting its turn for consideration in the committee room, we will notice a few of the requirements of the constitution concerning the enactment of laws:—

“The enacting clause of all laws shall be, ‘Be it enacted by the legislature of the State of Kansas.’”

“No law shall be enacted except by bill.”

“Every bill shall be read on three separate days in each house, unless in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rules; but the reading of the bill by sections on its final passage shall in no case be dispensed with.”

“Each house shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered immediately on the journal upon the final passage of every bill, or joint resolution.”

“A majority of all the members elected to each house, voting in the affirmative, shall be necessary to pass any bill or joint resolution.”

“No bill shall contain more than one subject, which shall be clearly expressed in the title, and no law shall be revised or amended unless the new act contain the entire act revised or the section or sections amended,

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and the section or sections so amended shall be repealed."

"All laws of a general nature shall have a uniform operation throughout the State; and in all cases where a general law can be made applicable, no special law shall be enacted."

"No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied."

"The legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed."

The foregoing provisions are taken from the constitution of the State of Kansas. Similar provisions are found in the constitutions of nearly all the States.

It is now time to find out what has been done with our bill by the committee to whom it was referred. After it had been in the hands of the committee four or five days, our member went to the chairman of the committee to inquire about the bill, and was informed that certain members from other cities were opposed to it, and desired to be heard against the bill before the committee. An evening was therefore agreed upon for the hearing. Our member telegraphed the mayor of his city that there was likely to be opposition to the bill, and requested him and one or two of the leading councilmen to come and appear before the committee, and explain the necessity of the change in the proposed law.

The hearing was held. Considerable opposition was developed. The members from two or three other cities preferred to have the law remain unchanged. Our member and a few others whom he had found to favor the

bill, together with the mayor of his town, appeared before the committee. Arguments were made for and against the bill. The committee decided by a vote of four to three to recommend the passage of the bill.

The next day in the legislature, when the order of business was reached for "reports from standing committees," the chairman of the committee on municipal corporations presented his report as follows:—

"MR. SPEAKER: Your committee on municipal corporations, to whom was referred House Bill No. 10, have had the same under consideration, and instruct me to report the bill back to the House with the recommendation that it be passed.

"JONES, *Chairman.*"

The three members who voted against the bill in the committee also presented a report signed by them, called a minority report, to the effect that they recommended the enacting clause to be stricken out. This report, if adopted by the legislature, would have killed the bill, because without the enacting clause the bill would have no effect.

The bill itself, with the majority and minority reports from the committee, were handed to the chief clerk, the title of the bill and the reports were read from his desk, and then handed to the journal clerk, who made the following entry on the journal:—

"January 20. House Bill No. 10, by Smith of Sumner, reported back from Com. on Munic. Corp., with recommendation to pass. Minority report presented by _____, and _____ to strike out enacting clause. Read a second time and referred to com. of the whole."

The reading of the title at this time constitutes the second reading of the bill. Having been reported favor-

ably from the committee and read a second time, the bill is now entitled to be printed and to have a place on the calendar. This means that enough copies of the bill will be printed on sheets of paper for the use of the legislature, one copy being given to each legislator for his personal examination. The calendar is a printed programme showing each day's work, and contains the number and title of each bill before the House for consideration.

If the report from the committee had been against the bill, in all probability that would have ended this attempt at law-making ; because, with an unfavorable committee report, it is almost impossible to secure the passage of a bill. It could not have a place on the calendar, or be printed, except by special vote for that purpose.

Our bill takes its place at the foot of the calendar, all bills previously reported back favorably from the various committees being ahead of it. It must now wait its turn to be reached on the calendar. It may be a week or ten days before the bills ahead of it are out of the way.

At length it is reached on the calendar and is considered by the committee of the whole house. On this particular day, our member or some other one having a bill near this bill on the calendar, when that order of business is reached, having addressed the speaker and having been recognized by him, says, "I move that the House do now resolve itself into the committee of the whole for the consideration of bills on the calendar." This motion having been put to vote and carried, the speaker vacates the chair, at the same time naming some one of the members to serve as chairman of the committee of the whole. The members do not leave their seats. The chairman thus named takes the speaker's chair and

announces that the House is in committee of the whole, and instructs the clerk to read the first bill, that is, the first bill on the calendar for the consideration of the members. In this case, we will suppose it to be our bill. The pages now distribute the printed bill to the members, and the clerk, omitting the title, reads the first section of the bill. Some member favorable to the bill moves that the first section be agreed to. Our member explains the necessity for the measure, and advocates the bill. Some of the members make inquiries about it, others join in the debate, some for and some against. Everybody has a right to be heard. In this way the merits and demerits of the bill are thoroughly debated. If the first section of the bill is agreed to, the next one is read and considered, and so on, section by section, to the end of the bill. Any section may be amended or changed at the pleasure of the members, upon motion and vote.

After all the sections of the bill have been read separately and considered, our member moves, "That when the committee rises it report this bill to the House with the recommendation that it pass." If this motion receives a majority vote, the bill is considered in good condition for ultimate passage. But if the opposition to the bill prevails in the committee of the whole, the motion is to "postpone the bill indefinitely," or to "strike out the enacting clause," or to "strike out all after the enacting clause." The result is the same whichever form of motion is used, as any one of them will kill the bill. An effort to save it could still be made by a motion to disagree with the recommendation of the committee of the whole, when it comes before the house in regular session. But as this motion would be voted upon and decided by the same persons who, as members of the

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committee of the whole, had just voted against the bill, it could hardly be expected that the vote in the regular session would be for the bill.

We will suppose that our bill receives a favorable recommendation from the committee of the whole. The next bill on the calendar is then taken up and considered, and so on with successive bills until it is nearly time for adjournment. Some member then moves "that the committee do now rise." If this motion prevails, its effect is to dissolve the session of the committee. The speaker resumes his seat, and the chairman reports to him the action of the committee on the various bills which have been considered. On motion the report is adopted. The bills reported favorably are now entitled to go on the calendar under the head of bills on third reading, that is, they are entitled to be placed on final passage. Sometimes, if the bill is long and calls out much debate, the committee of the whole cannot finish the consideration of the first bill. The motion then is "to rise, report progress, and ask leave to sit again."

On the next day's calendar we find our bill, with others, under the head of "Bills on third reading." It again waits its turn to be reached under this heading. It may be two or three days, or a week, or ten days, before it will be reached, but by and by it is called for its third reading, and put upon its final passage. The chief clerk, in open session, reads the bill in full. The speaker announces: "House Bill No. 10 having been read the third time, the question now is upon its final passage. All members who favor the passage of the bill will, when their names are called, vote aye; those opposed, no. The clerk will call the roll." This the

clerk proceeds to do promptly, because after the roll-call upon a bill begins no interruption or motion of any kind is allowed. As his name is called each member rises in his place and votes "aye" or "no." This final roll-call is the third critical stage in the progress of the bill through the House. Its first was getting through the committee; the second, the action of the committee of the whole House; and now the final vote by yeas and nays, as it is called.

We will assume that our bill succeeds upon this roll-call. The speaker then announces, "The bill having received a constitutional majority is now passed." The journal clerk enters the fact upon the journal, and gives the names of all members voting for the bill, and of those voting against, and also those absent or not voting.

As soon as the final vote has been passed, a messenger from the House carries the bill over to the senate chamber with a message from the speaker to the president of the Senate informing him that House Bill No. 10 has been duly passed by the House.

This message serves to introduce the bill in the Senate, but that is all. It must now be referred to the appropriate senate committee, and later to the committee of the whole Senate, and must have first, second, and third readings, and pass the gauntlet of the roll-call of the Senate, all in the same manner and attended with the same dangers of being "killed" at any one of the critical stages of its course through the Senate that it encountered in the House.

Let us suppose that our bill has survived all these vicissitudes, and that it has been passed by the Senate, but with certain changes in some of its provisions. The

changes were made when in the senate committee of the whole. Some senator made a motion to strike out a few words in the bill and substitute for them certain other words. These changes, after argument and discussion, met the approval of a majority of the Senate. The final roll-call in the Senate was upon the bill as amended.

A messenger from the Senate now carries the bill back to the House, with a message to the effect that House Bill No. 10 has been amended by the Senate, and duly passed in its amended form.

If our member is willing to accept the bill as amended by the Senate, his motion in the House is "that the House concur in the senate amendments." This motion being equivalent to asking the House to pass the amended bill, the vote on his motion must be by the yeas and nays, and entered on the journal. But if the friends of the bill in the House do not like the senate amendments, our member's motion is that "the House do not concur in the senate amendments." If this motion prevails, the bill is sent back to the Senate with a message to the effect that the House refuses to agree to the bill as amended by the Senate.

We will assume that the bill has been returned to the Senate. Some senator friendly to the bill makes a motion that "the Senate recede from its amendments." Upon this motion the voting is by yeas and nays, because the effect of the motion is to ask the Senate to pass the bill as it came from the House. If this motion prevails by the constitutional majority, the bill has passed the Senate.

Suppose, however, that the Senate votes down this motion to recede. As it stands now, our bill is dead, because the House has passed one bill, and the Senate

another, and each has refused to change its position. There is still a chance for our member to save his bill. He may introduce a motion in the House something like this: "Resolved by the House, the Senate concurring therein, that a committee of conference, consisting of four members from the House and three from the Senate, be appointed to consider the differences existing between the House and Senate in regard to House Bill No. 10."

If this motion prevails, the resolution is sent over to the Senate, with a request for its concurrence in the appointment of the committee of conference. It would be discourteous for the Senate to refuse a committee of conference when requested by the House. We will therefore suppose that the Senate promptly passes the resolution, and that the president of the Senate appoints the three members of the committee to which the Senate is entitled. This action of the Senate is communicated to the House by message, and the speaker thereupon appoints the four members to which the House is entitled. The bill having originated in the House, and being the larger body, it is entitled to a larger number on the conference committee. The matter is regulated by the joint rules of the two bodies.

Our bill is now in extreme peril. Everything depends upon the action of the conference committee, which meets and talks over the differences. The Senate members explain the reasons urged in the Senate why the bill should be amended. The House members tell about the feeling in the House as to the senate amendments, and why they were not acceptable to the House. After considerable debate, we will assume that the conference committee finally agrees to recommend

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that the House shall agree to one of the senate-amendments, and that the Senate shall withdraw the other amendments.

The committee now prepares and sends to each house a report of its action on the bill. The recommendations of the committee are voted upon in the Senate and in the House. If the report of the conference committee is not adopted by both houses, the bill fails. If it is adopted by a constitutional majority in both houses, the bill has now received the sanction of both the Senate and the House of Representatives, and is passed.

It is then sent to the enrolling clerk to be enrolled, that is, it is now carefully written out exactly as it was finally passed by the adoption of the report of the conference committee. After being enrolled, the bill is referred to the standing committee on enrolled bills, who carefully compare the enrolled copy with the original bill as it finally passed, to see that the enrolled bill is correct. If the committee find that the bill has been enrolled correctly, and that the enrolled bill is in perfect condition, it is so reported to the House. Thereupon the enrolled bill is presented to the speaker for his signature. After the speaker has signed it, the enrolled bill is sent to the Senate, where it is signed by the president of the Senate, and then sent to the governor for his approval. The section of the constitution of the State of Kansas which governs the further proceedings is as follows : —

“Every bill and joint resolution passed by the House of Representatives and Senate shall, within two days thereafter, be signed by the presiding officers, and presented to the governor ; if he approves, he shall sign it ; but if not, he shall re-

turn it to the House of Representatives, which shall enter the objections at large upon its journal, and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections to the Senate, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected, it shall become a law. But in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house. If any bill shall not be returned within three days (Sundays excepted) after it shall have been presented to the governor, it shall become a law in like manner as if he had signed it, unless the legislature by its adjournment prevent its return, in which case it shall not become a law."

Our bill, we will assume, was duly approved and signed by the governor. It is now published in the official State paper, or session laws, and upon such publication it takes effect and becomes a law.

We have now shown how a law is made in the State legislature. The method of the enactment of a law by Congress is substantially the same as that given in this chapter for the making of a State law. There are some differences in the details, but the general method is the same. We trust that you will appreciate how admirably the system has been devised to insure deliberation, care, and accuracy in the enactment of the laws.

QUESTIONS AND SUGGESTIONS.

Organize two-thirds of the class into a House of Representatives, and one-third of it into a Senate, and go through the forms of the enactment of a law. Have the superintendent of your schools write to the Secretary of State and request

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for your school library a printed copy of the senate and house journals of the last session of your legislature.

Invite one of the members of the legislature from the district in which your town is situated to attend one of the recitations of the class in civil government, and talk to the class about the work of the last session of the legislature.

CHAPTER VIII.

THE CRIMINAL LAWS.

The General Statutes. — The laws which are enacted by the legislatures in each of the States are collected and published in one or more large volumes known as the General Statutes. These laws constitute the rules and regulations by which private citizens and all public officers must govern their conduct. They include a large number and a great variety of subjects, but may be classed into two great divisions, known as criminal and civil.

Criminal and Civil Laws. — The criminal laws are those relating to crimes and punishments, and are enacted for the protection of the people from the vicious, depraved, and criminal classes, and also as a guide to the law-abiding citizens, pointing out what the people, through the action of the legislature, have united in prohibiting, because opposed to the general welfare.

The civil laws are those relating to business, property, education, the duties of officers, and all the numerous concerns of life other than those pertaining to crimes and criminals. These two general divisions include all the laws. We will first take up the criminal laws.

Offences against Government. — The highest crime known to the criminal law is treason. It is considered a higher crime than murder, which is the destroying of human life, because it aims at the destruction of the life of the entire State or Nation.

Treason against the United States consists in levying

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war against it or in adhering to its enemies, giving them aid and comfort. This is the definition contained in the Constitution, Art. III, Sec. 3. Congress has no power to enlarge this definition, nor to make anything else treason. The punishment for treason is death, or imprisonment at hard labor for a term of years, and a heavy fine. As a protection to the citizen who may be accused of treason, it is provided that the trial shall always be by jury; and that no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The definition of treason and the requirements of a jury trial, and the necessity of two witnesses to the same overt act, were placed in the Constitution to do away forever with the abuses of the old English laws relating to treason. Under those laws, in addition to waging war and adhering to the king's enemies, or compassing or imagining the death of the king, a large number of other offences constituted treason. Among such offences at one time were counterfeiting or clipping the coins of the kingdom; breaking prison, or rescuing from it a prisoner, when the prisoner was committed for treason; burning houses to extort money; wilful poisoning; execrations against the king, calling him opprobrious names by public writing; marrying without the royal license any of the king's children, sisters, nephews, or nieces; refusing to abjure the pope; assembling riotously to the number of twelve, and not dispersing upon proclamation.

Treason against the State consists of the same acts against the State as would constitute treason against the United States if directed against the general govern-

ment, that is, in levying war against the State, or in adhering to its enemies, giving them aid and comfort. Misprision of treason consists in having knowledge of any treasonable purpose or act against the State and failing speedily to make the same known. The punishment for misprision of treason is confinement at hard labor in the penitentiary for a term of from one to ten years.

In most of the States it is made a crime, punishable by a fine of from \$5 to \$100, for any person within the limits of the State to raise, or assist in raising, the flag of any nation or body of men who are at war with the State or the United States, or to wear any cockade, badge, or device intending thereby to show sympathy with or adherence to the enemies of the State or the United States.

Under our government there have been few occasions for trials for treason. Aaron Burr, once Vice President of the United States, was arrested for treason in the year 1807, but after a full hearing and trial before the Circuit Court of the United States in Virginia, no overt act having been sufficiently proved, he was acquitted and discharged. Jefferson Davis was held under a charge of treason after his capture at the close of the Civil War in 1865, but his case was never brought to trial.

With these exceptions, trials for treason are practically unknown in our Republic.

The reason for this is that there are no treasons. In a representative government such as ours there are few or no occasions for it. The people make their own government; they choose their rulers; and they change them at regular and stated intervals. Patriotism is one of the elementary virtues in the American citizen. He

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loves his country too well to think of trying to overthrow it, or to contemplate adhering to its enemies or giving them aid and comfort. He has learned, or should learn, that the highest purpose of this United States government is to protect its citizens. That is why restraints are thrown around those disposed to do evil, and why punishments are meted out to criminals.

Homicide. — Taking the life of a human being is called homicide. But not every killing of a human being is punishable as a crime. Homicide is justifiable when committed by any person in resisting an attempt to murder him, or to commit any felony upon him, or in resisting an attempt to commit any felony in any dwelling-house in which such person shall be. This is why it is lawful for a man to shoot and kill a burglar who has broken into his dwelling-house, and is there attempting to steal.

Homicide is also justifiable when committed by any person in the lawful defence of himself or herself, or of his or her husband or wife, parent, child, master, mistress, apprentice, or servant, when there shall be a reasonable cause to apprehend a design to commit a felony, or to do some great personal injury, and there shall be immediate danger of such design being accomplished. It should be noticed that in this case the danger must be immediate, and there must be reasonable cause to fear great personal injury or the commission of some great crime before the killing of the assailant can be justified. Great caution is necessary in exercising this right of defence, because if any of the elements creating the justification are absent, the killing will be murder.

Homicide is also justifiable when necessarily committed in attempting by lawful ways and means to apprehend any person for a felony committed, or in law-

fully suppressing any riot or insurrection, or in lawfully keeping or preserving the peace. In this justification great emphasis must be placed upon the phrase "necessarily committed." It must be necessary to resort to killing to accomplish the justifiable ends of justice. Homicide is excusable when committed by accident or misfortune, in either of the following cases: first, in lawfully correcting a child, apprentice, servant, or in doing any other lawful act by lawful means, with the usual and ordinary caution, and without unlawful intent; or, second, when committed in the heat of passion, upon any sudden or sufficient provocation, or upon sudden combat, without any undue advantage being taken, and without any dangerous weapon being used, and not done in a cruel and unusual manner.

The law as to excusable homicide is for the protection of the citizen who in doing a lawful act, without an intention of hurt, unfortunately kills another. An example of this given in the law books is where a man is at work with a hatchet, and the head of the hatchet flies off and kills a bystander. But in order to be thus excused, the man must have been exercising usual and ordinary caution. If he knew that the head of the hatchet was loose on the handle and likely to fly off, and had taken no precaution to prevent the accident, he would not be excused.

Murder. — The killing of a human being by a person of sound mind, unlawfully, that is, without justification or excuse, and with malice aforethought, is murder. Malice aforethought means with premeditated intention and maliciously.

Every murder which is committed by means of poison, or by lying in wait, or by any kind of wilful, deliberate,

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and premeditated killing, or which shall be committed in the perpetration, or attempt to perpetrate, any arson, robbery, or burglary, is murder in the first degree, for which the punishment is death by hanging, or electrocution, except in a few of the states where it is imprisonment for life.

Every murder which is committed purposely and maliciously, but without deliberation and premeditation, is murder in the second degree. It is punished by confinement in the penitentiary for not less than ten years, and may be for twenty years, or for life.

Manslaughter. — The killing of a human being without a design to effect death by the act, procurement, or culpable negligence of another, unless it be committed under such circumstances as to constitute excusable or justifiable homicide, is manslaughter. The punishment for manslaughter is confinement at hard labor in the penitentiary, or State prison, as it is called sometimes. There are different degrees of manslaughter, but it will be unnecessary for us to attempt to consider these subdivisions. The thing that distinguishes manslaughter from murder is the absence in manslaughter of the design to effect death.

Assault with Intent to Kill. — It is a state prison offence to purposely shoot at, or stab another, or assault or beat another, with a deadly weapon, or by any means or force likely to produce death, with the intent to kill or maim such person. The punishment is confinement at hard labor for a term of years in the penitentiary.

Affrays, Fighting, and Assault and Battery, without intent to kill, are offences of a lesser degree, and subject the offenders to punishment in the county jail, or fine, or both fine and imprisonment. These and other lesser

crimes are called misdemeanors. All crimes punishable by death or imprisonment at hard labor in the state prison are called felonies. All offences not felonies are misdemeanors.

Offences against Property.—The principal offences against property are arson, burglary, robbery, embezzlement, buying or receiving stolen property, obtaining money under false pretences, forgery, counterfeiting and passing counterfeit money, and malicious trespass.

Arson is the offence of wilfully setting fire to or burning a dwelling-house, barn, shop, store, school-house, or other building, or any goods, wares, merchandise, grain, hay, or other personal property. It is a more serious offence and a higher degree of arson to burn, in the night-time, any house in which there shall be at that time some human being, than it would be to burn it in the daytime, or to burn an uninhabited building. The reason for this is because of the danger to human life by having a house set on fire in the night, when the inmates are presumably asleep.

Burglary in the first degree consists of breaking into and entering, in the night-time, the dwelling-house of another, in which there shall be at the time some human being, with the intent to commit some felony or larceny therein. The breaking into the house may be by picking the lock and opening an outer door, by raising a window, by prying off a shutter, or by bursting or breaking open any portion of the house, or making any opening into it. To constitute the crime there must be both a breaking and an entering of the house. If an outer door be open, and a thief comes in for the purpose of stealing, it is not burglary. If the house is broken into, but the offender hearing some noise or becoming

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frightened, abandons his purpose, and does not enter the house, there is no burglary, although the offender might be convicted of an attempt to commit a burglary. But the courts hold that the crime is complete, if the burglar, after affecting an opening, puts his head, or any portion of his body, within the house, even if he does not get entirely in, and after such partial entry goes away.

Burglary committed in the daytime is considered to be of a lesser degree than if committed in the nighttime. So, also, is the burglary of a building in which there is at the time no human being.

Burglary is a felony, and punishable by confinement in the penitentiary at hard labor.

Robbery is the taking of the property of another from his person, or in his presence, and against his will, by violence to his person, or putting him in fear of some immediate injury to his person. The holding-up of the passengers in a stage, or railway train, at the point of a revolver, and compelling them to deliver their money, watches, and other valuables, is an illustration of the offence of robbery. It is a felony and punishable as such.

Larceny is stealing, taking and carrying away any money, goods, grain, fruit, tools and implements, or other personal property or valuable thing whatsoever belonging to another. If the value of the property or thing stolen is twenty dollars or more, the offence is called grand larceny, and is felony; if the property stolen is less than twenty dollars in value, the crime is petit larceny, and is a misdemeanor, punishable by imprisonment in the county jail, or by fine.

The stealing of a horse, neat cattle, mule, sheep, or

hogs, is grand larceny, without regard to the value of the animal or animals stolen.

Embezzlement is the taking and converting to his own use the money or property of his employer by an agent, clerk, employee, apprentice, or servants of a private person, copartnership, or corporation. It is also embezzlement for a trustee, executor, administrator, guardian, or an officer of the State, county, township, or city to convert to his own use the money or other property which has come into his possession by virtue of his office or trust, or to secrete or make away with the same with the intent to convert it to his own use.

The punishment for embezzlement is the same as for larceny of a like amount.

Buying or receiving Stolen Property, knowing it to be stolen, is a crime punishable the same as if the person committing it had himself stolen the property. The owner of stolen property may reclaim it wherever found, and take it from the person in whose possession it is, even though such person may have come by the property innocently, and may have paid full value for it, not knowing it to have been stolen.

Obtaining Property by False Pretences is a crime. Every person who, with intent to cheat and defraud another, shall designedly, by means of any false token or writing, or by any other false pretence, obtain from any person any money, or other thing of value, shall, upon conviction, be punished in the same manner and to the same extent as he would have been for stealing the money or thing so obtained.

Forgery consists in falsely making, counterfeiting, or altering any note, bond, check, will, deed, mortgage, or other instrument of writing by which any pecuniary

demand or obligation shall be created, transferred, or changed. The most common forms of forgery are the falsely making or signing a note, check, bond, bill of exchange, or deed. The crime is a felony and punishable as such.

Counterfeiting and passing counterfeit money are offences against the coin and money used by the people. The making and passing of counterfeit coins and bank-bills are felonies, and are severely punished. A person may innocently receive and pass a counterfeit bill or coin, not knowing it to be a counterfeit. In order to constitute a crime it must be done with the intent to pass the counterfeit for genuine money.

Malicious Trespass is the wilful going upon the premises of another and doing injury to his property. It is provided by statute that every person who shall wilfully, unlawfully, and maliciously break, destroy, or injure the door or window of any dwelling-house, shop, store, or other building, or sever therefrom, or from any gate, fence, or enclosure, any material of which it is formed, or sever from the freehold any crops or produce thereof, or anything attached thereto, or shall pull down, injure, or destroy any gate, post, railing, or fence, or any part thereof, or cut down, lop, girdle, or otherwise injure or destroy any fruit, ornamental, shade, or forest tree, being the property of another, shall, upon conviction, be adjudged guilty of a misdemeanor, and punished accordingly.

Offences against the Administration of Justice. — No person can be convicted of a crime except upon his own confession, or upon trial in open court. No person is permitted to testify as a witness on a trial who has not first taken an oath to tell the truth, the whole truth,

and nothing but the truth. If the witness violates this oath, and testifies falsely to any material matter, he is guilty of a serious crime affecting the administration of justice, because his false testimony may send an innocent person to the penitentiary, or set free a guilty criminal. This offence is perjury. It is a felony, and is, as it ought to be, severely punished. If the perjury is wilful and corrupt, and is committed on a murder trial, and for the express purpose of securing the condemnation and execution of the prisoner, the punishment for the perjury is death, or confinement at hard labor for not less than ten years. Upon other trials the punishment for corrupt and wilful perjury is from one to seven years' imprisonment.

Subornation of Perjury is the procuring of another to commit wilful or corrupt perjury, by the use of any means whatsoever. The punishment for this offence is the same as for perjury. It is also a felony for a person, by the offer of any valuable consideration, to attempt, unlawfully and corruptly, to procure or entice another to commit perjury.

Bribing Witnesses to leave the country, or otherwise absent themselves, so that their evidence cannot be had upon the trial, is a punishable offence affecting the administration of justice. So is the bribery of jurors to decide in favor of or against the accused.

Compounding of Felony consists in the taking of money, or some reward or gratuity or promise to conceal a felony known to the person to have been committed, or to abstain from the prosecution of such crime. This offence is itself a felony.

Aiding a Prisoner to Escape, either by opposing or resisting the sheriff or other officer in making the

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arrest, or by rescuing or assisting to rescue him from the officer after arrest, or by assisting the prisoner to break jail, constitutes a crime affecting the administration of justice, and is punishable as such.

Other Crimes. — In addition to the crimes specially mentioned in this chapter, there are offences against the election laws; against public morals and decency; against the laws to regulate and suppress the sale of intoxicating liquors, and to prohibit gambling and gaming tables; the crimes of cruelty to animals, disturbing public worship, adulterating foods and drugs; the crimes of maintaining lotteries, trusts, and monopolies, and numerous miscellaneous matters. They can be found in the General Statutes. Those mentioned are sufficient for the purpose of this chapter, which is to give a general view of the criminal laws.

REFERENCES.

Refer to the General Statutes of your State under the headings of Crimes and Punishments, and Criminal Procedure, and notice the different degrees of the various crimes mentioned, and any variances that may exist between the laws of your State and those given in this chapter.

CHAPTER IX.

THE LAW OF REAL PROPERTY.

The Common Law. — All the laws enacted by the legislature in the several States and by Congress are known as statute, or written, laws. They include the great body of the laws which the American people have seen fit to make for their own guidance and government. But there are laws in force in this country not found in any statute of any State, nor in any law passed by the Congress of the United States. When our English ancestors came to this country as colonists of Great Britain, they claimed all the rights of English subjects, and considered themselves bound by the laws of England then in force so far as those laws were applicable to the wants and conditions of the colonists here in America. These English laws consisted in part of the Acts of Parliament, but a large number of them consisted of ancient customs, usages, and rights of the people, which were never formally enacted into laws, but which had the force of law because they had been used and acquiesced in by the people and by the sovereigns of England for a time "so long that the memory of man runneth not to the contrary," as the old law phrase is. These were the unwritten laws of England. Modified by our constitutional and statutory law, and the decisions of the courts to conform them to our wants and conditions, these old English laws, written and unwritten, are here in this country to this day, and

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are in force as a part of our American law. They constitute what is known as the *common law*.

The General Statutes of the States are founded upon the common law, and many of its provisions have been enacted into the written law of the American people. The greater portion, but not all, of the old common law has been incorporated in this way into the statutes. The remaining portion is found only in the published decisions of the courts and in the commentaries and treatises on law found in law libraries. Blackstone's "Commentaries on English Law," and Kent's "Commentaries on American Law" are among the most valuable and authoritative of these treatises. Every lawyer has "Kent" and "Blackstone" in his office.

Real and Personal Property. — Farms, city lots, and all other portions of the earth's surface owned and occupied by men are called real property, or real estate. Real property includes not only the land itself, but also the houses, barns, sheds, fences, business blocks, factories, shops, and other structures and improvements thereon and attached or fixed thereto.

Money, jewelery, goods, wares, merchandise, horses, cattle, notes, checks, bonds, and all other property not included in the definition of real estate, are called personal property.

Everything of value, the subject of ownership by man, is either real or personal property.

We shall first consider the law of real estate, then that of personal property.

Origin of Land Titles. — The ownership and title to real estate in this country is derived from the United States government. Before the Declaration of Independence and the establishment of our present govern-

ment, all the lands of the thirteen original States belonged to the English crown, except such portions thereof as had been granted to individuals and companies by the king. England's title was obtained by discovery and conquest from the Indian tribes. When our government was created, and its independence from England acknowledged by the treaty with the mother country at the close of the Revolutionary War, the United States government succeeded to the ownership of the public domain theretofore held by the king. England's claim of title included not only the thirteen original colonies, but the vast regions lying to the west of them, then largely unknown, but which now constitute the rich and populous States of Ohio, Kentucky, Indiana, Michigan, Wisconsin, and Illinois, extending to the Mississippi River. A large portion of this country had been in dispute between England and France, but the French title had been extinguished, and our American title as the successor in interest to the title of Great Britain has always been acknowledged as the true title to the land.

Our government purchased Florida from Spain in 1821, and what is known as the "Louisiana purchase" from France in 1803. This Louisiana purchase includes the great domain from the Mississippi River to the Rocky Mountains, where are now the great States of Louisiana, Arkansas, Missouri, Iowa, North Dakota, South Dakota, Kansas, Nebraska, portions of Minnesota, Montana, Wyoming, and Colorado, also Oklahoma and the Indian Territory. We obtained Texas by voluntary annexation of its people and territory in 1845, after it had fought for and obtained its freedom from Mexico. We acquired California, New Mexico, and Arizona from Mexico, as the result of our Mexican

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War, and by the payment of \$15,000,000, just as we have acquired the Philippine Islands from Spain as the result of our late war with that country, and the payment of \$20,000,000 for the public works and improvements which Spain had in those islands. Alaska we obtained by purchase from Russia in 1867 for \$7,200,000.

Starting then with the ownership and title to the land in the United States government, we are prepared to understand what is meant by the title to a farm, or a business house and lot, or a home in a city or town, and how it can be acquired and transferred to another.

The Contract of Sale.—A, the owner of a farm, has agreed to sell it to B, for \$3000 and B has agreed to buy it from A for that price, provided the title shall prove to be good.

This agreement, to be valid and binding upon A and B, should be reduced to writing and signed by them. This is necessary because, by what is known as the Statute of Frauds, enacted originally in England and reenacted in all the States, "no action can be brought upon any contract for the sale of lands unless the agreement, or some memorandum or note thereof, shall be in writing and signed by the party to be charged therewith, or some other person thereunto by him or her lawfully authorized."

No particular form of words is necessary in order to make the contract binding. What is contained in the next to the last preceding paragraph, if signed by A and B, with a description of the land inserted, would be a legal contract, and a full compliance with the law.

Searching the Title.—The contract of sale and purchase having been made in conformity to law, B causes

an examination of the title to be made. That is, he causes a search to be made in the office of the register or recorder of deeds of the county in which the farm is located, for the purpose of tracing the history of that particular piece of land. We will suppose the farm to be in the State of Kansas, and that A has given the following description of the land: "N.W. $\frac{1}{4}$, 6-19-11."

This is sufficient for the purpose, and is perfectly intelligible to the recorder of deeds, who causes the search of the title to be made. The description means, and will be written in the deed, as follows: "The northwest quarter of section six (6), in township nineteen (19), south, of range eleven (11), east of the sixth principal meridian, in Lyon County, State of Kansas, containing 160 acres, more or less, according to the United States government survey."

In order to understand this last description, it should be known that after acquiring title to the public domain, the United States government, by Act of Congress, established a uniform system of survey and description for the government lands.

Government Survey. — The lands are first surveyed and divided into squares of six miles each way, containing thirty-six square miles, as follows:—

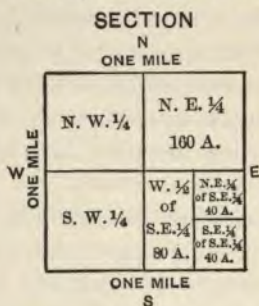
TOWNSHIP

	6	5	4	3	2	1
	7	8	9	10	11	12
	18	17	16	15	14	13
	19	20	21	22	23	24
	30	29	28	27	26	25
	31	32	33	34	35	36

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Each square mile has a number of its own. These numbers are the same in all the townships, and are easily remembered, because, commencing at the northeast corner and proceeding consecutively back and forth from east to west and from west to east, the square miles number from one to thirty-six, inclusive, as shown in the diagram.

Each square of six miles on a side is called a township, and each square mile in the township is called a section, and contains 640 acres of land. Each section is subdivided into four quarters, as follows:—



The quarter sections may be subdivided as shown above.

The farm that we are interested in can now be easily located in its township. It is shown by the black spot in the northwest quarter section of the township. All that is needed further is to know where the township is. In surveying the public lands, the Act of Congress provides that there shall be, at convenient intervals, certain meridians of longitude, and certain parallels of latitude from which the townships may be numbered in two directions, east and west, and north and south. The parallel in this case is 40° north latitude, being the boundary line between Nebraska and Kansas. The meridians for the public surveys are known as principal

meridians. The sixth principal meridian is the 100th degree of longitude west from Greenwich, England.

The first tier of townships of the public survey south of the parallel of 40° is numbered 1, the second tier of townships 2, and so on. The land we are talking about, being in township 19, south, is in the 19th tier or row of townships south of the north line of the State of Kansas, or nineteen times six miles, or 114 miles, south of the 40th degree of latitude. The tiers or rows of townships east and west of the principal meridian are called ranges. Our land being in "range 11 east" is therefore eleven times six, or sixty-six miles, east of the 6th principal meridian. We now have the exact location; it is the northwest quarter of section six (6) in township number nineteen (19), south of latitude 40° , and in range eleven (11) east of longitude 100° . We know where our land is in the world, as the mariner knows the location of his ship in mid-ocean by its latitude and longitude.

In tracing the history of the title of this land in the recorder's office, we are aided by the knowledge:—

1. That the ownership of land can be transferred only by deed, or other instrument of writing.
2. That all deeds, or other instruments of writing affecting the title of real estate, are, or should be, recorded.

The Record.—We first examine the records to find to whom, if anyone, the United States government has transferred its title (which means ownership) to the land. We will suppose this to have been to John Brown, in 1857. The deed from the government is called a patent. It is issued by the President of the United States. It recites that the person to whom the land is patented has complied with the Act of Congress under

which he was acquiring the land, and that the land, describing it, is granted to him, his heirs, and assigns forever. His heirs are those to whom his property would descend upon his death, and his assigns are those to whom he may choose to convey the property by deed.

The land we are talking about having been granted to John Brown, we now look to see what he did with it. Our search discloses that he kept the land from 1857 until 1865, when he deeded it to William Smith. In 1875 William Smith conveyed it to Thomas Jones, and in 1895 Thomas Jones conveyed it to A, the man from whom B has agreed to buy it.

A is therefore the owner and can sell it to B. He does this by an instrument in writing called a *deed*.

Deeds, Mortgages, and Leases. — The deed is a written instrument, reciting in substance that A, in consideration of a certain sum of money named in the deed, grants, bargains, sells, and conveys to B, his heirs and assigns, the real estate (describing it), and that he will warrant and defend the title. It should be signed by the owner and his wife, if he be a married man. The wife's signature is necessary to protect the title of the purchaser from the dower, or widow's rights in the land of her husband, in case she should outlive him, and should not have joined in her husband's conveyance of the land. The person selling the land and making the deed is called the grantor; the person to whom it is made is called the grantee. The deed is of no validity and passes no title to the land unless it be delivered to the grantee, or to some one for him.

In order to entitle the deed to be recorded and registered, it must be acknowledged, that is, the grantor should, in the presence of a notary public, justice of

the peace, or other officer authorized to take acknowledgments of deeds, acknowledge that he executed the deed. The notary or other officer, before whom the acknowledgment is made, appends to the deed a certificate stating that the grantor personally appeared before him and made the acknowledgment. The acknowledgment should be made before the delivery of the deed.

The courts hold that an unacknowledged deed is good between the grantor and grantee, and is effectual to pass the title to the land to the grantee. But such a deed would not be entitled to record. And if the grantor should make and acknowledge another deed to another grantee, and that deed should be recorded first, this second grantee would get the land, provided he had no knowledge of the former deed; and in such case the holder of the former deed would lose the land, although he may have bought and paid full value for it. All deeds should, therefore, be acknowledged and recorded. It is the duty of the person receiving the deed to have it recorded and to pay the recorder's fee.

The owner of real estate, who has bought and paid for it, and has acquired the title to it by good and sufficient deed, has complete dominion over it. This dominion extends not only to the earth's surface, but to the air above, and as deep down into the earth as man can go. It includes the trees, crops, and everything that grows in the soil; deposits of building-stone, salt, iron, lead, zinc, and other minerals that may be found under the surface; also the ice that forms upon any pond or running stream within the boundaries of the real estate purchase.

A deed containing covenants of seizin and warranty

is known as a warranty deed. The legal effect of such a deed is to convey the land to the grantee, with an obligation on the part of the grantor to defend the title, if it shall be assailed. The covenant of seizin is a warranty that the grantor is possessed of a good title and right of possession, which he undertakes by the deed to convey.

A deed conveying the land, but omitting the covenants of seizin and warranty, is called a quit-claim deed. This deed will pass the title of the grantor to the grantee as effectually as a warranty deed; but if that title should prove to be defective, the grantee could not require the grantor to defend the title, or to pay the loss, if the title should prove to be worthless, and the land should be taken from him by the holder of a better and paramount title. All that a grantor in a quit-claim deed does is to pass to his grantee whatever title he may have at the time of making the deed. If it is good, the grantee gets a good title; but he acquires no right to call upon his grantor to make the title good, or to pay the damages, if it should be bad.

A mortgage of real estate is an instrument of writing, in the form of a deed, with the condition, however, that it shall be void and of no effect if the grantor, for this instrument called the mortgagor, makes payment of a certain sum of money which he owes to the grantee, called the mortgagee, by a certain future date. The mortgage is given as a security for an indebtedness. It creates a lien upon the real estate; and if the debtor fails to pay the debt the land will be sold, and the money received for it applied to the payment of the debt.

A mortgage is signed, acknowledged, and recorded in

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the same manner as a deed. The proceedings whereby the land is sold and the proceeds applied to the payment of the indebtedness is called the foreclosure of the mortgage. If the mortgagor pays the debt according to the terms of the mortgage, the lien upon the land is extinguished, and the holder of the mortgage must enter, upon the public records of the county, a written acknowledgment that he has been paid and that the mortgage is discharged. This is called releasing the mortgage.

A lease of real estate is an instrument of writing conveying to the grantee, in this case called a lessee, the real estate for a certain specified time, as one, two, three or more years. At the expiration of the time the conveyance is at an end. But during the time of the lease, the lessee is entitled to the possession and the use of the real estate the same as if he were the actual owner. The owner, by making the lease, abdicates his dominion over the land; if he disturbs the lessee in his enjoyment of the land, the owner will be treated as any other trespasser would be treated. When the lease expires, it is the duty of the lessee to restore the real estate to the owner; if he refuses to do so, he becomes the trespasser, and the owner may cause him to be put off the premises. The owner of real estate which has been leased is called a landlord, and the lessee is his tenant. What is paid by the tenant for the use of the real estate during the lease is called rent. The rent is usually a fixed sum of money, payable monthly or yearly, or at such other intervals of time as may be named in the lease. In the case of farming lands, the rent is sometimes a certain share, usually one-third, of the crops raised on the farm. If the lease is for a period of more

than one year, it must be in writing; if for less than a year, it may be oral, but even then it would be better to have the lease reduced to writing in order to avoid opportunity for misunderstanding or controversy as to its terms.

In the sale of real estate, it is usual for the purchaser to require, and the grantor to furnish, with the deed an abstract of title, that is, a condensed statement of the history of the title as shown by the public records, and disclosed by the search in the recorder's office, as hereinbefore described.

In the absence of a special contract between grantor and grantee as to taxes, it is usually provided by statute that if the sale is made at any time in the year before the taxes become due on real estate, the grantee shall pay the taxes for that year; if after that date, the grantor shall pay the taxes. The date when the taxes fall due is fixed by statute, and is usually November 1 or December 1 of each year.

CHAPTER X.

LAWS OF PERSONAL PROPERTY.

Personal Property. — Money, horses, cattle, merchandise of all kinds, notes, checks, bonds, wagons, ploughs, tools and implements, household goods, accounts, wages, insurance policies, ocean steamers and ships of all kinds, musical instruments, wearing apparel, locomotive engines, trains of cars, and all kinds of property not included in the definition of real property, mentioned in the last chapter, constitute personal property.

Real property is immovable. It is, or is attached to, a particular portion of the earth. Not so with personal property. Its distinguishing characteristic is its mobility. Where the owner goes it can easily be made to go. If it is money, it can be carried in his pocket; if a team, the owner may drive it where he chooses. It attends, or in contemplation of law attends, the person of the owner; hence the name of personal property.

Growing crops on a farm, being attached to the soil, and requiring nurture from the soil to mature them, are considered a part of the real estate, and a deed to the land will convey to the purchaser the growing crops. But when matured, and especially when harvested and in the stack or crib, the crops are personal property.

Because of its mobility, title and ownership of personal property are transferred from one to another with less formality than real estate. No deed is required,

and no registration in the recorder's office. An oral agreement and the delivery of the property by the seller to the buyer complete the transaction. Buying a dollar's worth of sugar at the grocery, or a twenty-thousand-dollar stock of merchandise, would be illustrations.

Contracts. — Mercantile business consists in buying goods in large quantities, or at wholesale, and selling them out in smaller quantities, or at retail, at an advance in price. The difference between the wholesale price at which the goods are bought, and the retail price at which they are sold, is the profit of the merchant. Out of this profit he must, of course, pay the expenses of conducting the business. The buying and the selling consist of a series of agreements by the merchant; first, with the wholesale dealers of whom he buys, and, second, with his customers to whom he sells, for the purchase and sale of the different articles of merchandise in his store. These agreements are called contracts. The business of manufacturing consists in buying raw material; for instance, wool or cotton, and making it into cloth, or other finished product, and selling the finished product. The business is conducted by means of contracts: first, for the purchase of the raw materials; second, with the workmen, for the making of the finished products; and, third, with the people to whom the products are sold. The entire business consists of a series of agreements, or contracts, the same as we found in the mercantile business.

A physician is called to attend a patient. The patient, by calling the doctor, agrees to employ and pay for his skill and professional services; the doctor, by establishing his office and hanging out his sign, agrees to be thus employed, and by visiting and prescribing for the

patient carries out his part of the agreement; when the patient pays the physician, he performs his part of the contract, and the transaction is ended. The same or a similar transaction may be repeated again and again, as often as the parties see fit to make the contract therefor.

The farmer's business is to raise wheat, corn, and other crops; to supply the food for his own family and domestic animals; and to sell the surplus for money to buy clothing and such other things as he may need which cannot be produced on the farm. But to do this he must have a farm. He obtains it by a contract of purchase from some one who has a farm to sell. Then he must have teams and farming tools and seed. These he obtains by making contracts with those who have them to sell. He must do the work himself, or, by contract with laborers, hire it done. The work of harvesting and selling the crop involves other sets of contracts.

In a similar way, if we examine the various occupations of men, we shall find that they all consist in making and carrying out contracts. A contract is an agreement of two or more persons, for a consideration, to do or not to do some particular thing which is lawful to be done. To have a valid contract there must be at least two persons capable of contracting; the parties to the contract must not be lunatics, or idiots, or otherwise incapable of transacting business.

The contract must be entered into voluntarily and without fraud. If A, with a loaded gun or force of any kind, compels B to make or sign a contract, by threatening to shoot or otherwise injure him if he refuses, the contract so procured is invalid.

If B obtains the consent of A to a certain contract by

deceit and fraud, the contract is void, because of the deception practised.

Every contract, to be upheld, must have a consideration. If A, without obtaining anything for it, promises to pay B one hundred dollars in sixty days, it is no contract. B cannot compel its enforcement. But if A promises to pay B one hundred dollars in sixty days for something of value which he has received from B, it is a contract. B can enforce it. The consideration for a contract may be money, or other personal property, or anything of value. The consideration need not be of equal value with the contract, because the law cannot undertake that each party to a contract shall make a good trade, or an equal trade. But the consideration must have some value, or the contract will not be upheld.

Contracts lawfully made should be held sacred between citizens, and are sustained and enforced by the strong arm of the law through the agency of the courts.

Pledge. — There are two methods by which personal property is used as security for indebtedness. The property may be delivered by the owner to his creditor, to be held by the creditor until the indebtedness is paid, and upon such payment to be delivered back to the owner. The property so delivered to the creditor as security for the payment of a debt is called a pledge; the owner is the pledgor, the creditor to whom it is pledged is the pledgee. If the pledgor fails to pay the debt, the creditor has the right to sell the pledged property and retain out of the proceeds enough to pay the debt and the expense of making the sale. If there be any surplus, it belongs to the owner of the pledge.

The title to the property pledged remains in the

pledgor while it is held as security. Payment of the debt extinguishes the right of the pledgee to retain possession of the property.

Where notes, bonds, or other valuable papers are pledged, they are usually designated as collateral securities, and the act of so pledging them is giving collateral security.

Chattel Mortgage. — The other method of using personal property as security for an indebtedness is by chattel mortgage.

A chattel mortgage is an instrument in writing signed by the owner of the property, stating in substance that A, the maker of the mortgage, is indebted to B, the person to whom the mortgage is given, in a certain sum of money, naming the amount, due at a certain time, and that to secure the payment thereof A hereby sells and conveys the following described personal property (here state what the property is), and that this conveyance is intended as a mortgage to secure the payment of the said indebtedness, and that in case the indebtedness is paid this instrument shall be void.

The legal effect of the chattel mortgage is to give a lien upon the property. The person giving the chattel mortgage is called the mortgagor; the person to whom it is given is called the mortgagee. The mortgagor usually retains the possession of the mortgaged property until the indebtedness becomes due. At, or at any time after the debt falls due the mortgagee is entitled to take the property and cause it to be sold, and pay himself out of the proceeds, and also pay the costs and expenses of making the sale. If any surplus remains, it belongs to the mortgagor. The chattel mortgage usually provides that the sale of the property upon

the default of payment may be made at public auction or at private sale.

A person may give two or more chattel mortgages upon the same personal property to secure two or more different debts. They may be given to the same or to different persons. The law provides for the filing and registration of chattel mortgages in the office of the county register of deeds. Where there are two or more chattel mortgages upon the same property, the mortgage earliest of record is entitled to be first satisfied out of the property, even though it may not be the first mortgage given. In order to preserve the proper priorities, holders of chattel mortgages should promptly file them for record. An unrecorded chattel mortgage is good as between the mortgagor and mortgagee, but it is not good as against the other creditors of the mortgagor, or purchasers of the property without knowledge of its existence. Upon payment of a chattel mortgage, it becomes the duty of the mortgagee to release it upon the public records. This he does by writing on the mortgage a statement that the debt is paid, and signing it, and causing the register of deeds to enter the statement of release upon the county records.

Notes and Due-bills. — When one person is indebted to another it is usual for the debtor to give, and the creditor to require, a note. This is a short instrument of writing signed by the debtor, promising to pay the amount of the indebtedness at a time stated in the note. The usual form of a note is as follows: —

\$100.

BOSTON, MASS., January 1, 1901.

Ninety days after date, for value received, I promise to pay John Smith, or order, the sum of one hundred dollars with interest from date at the rate of six per cent per annum.

WILLIAM JONES.

The note should be dated the day it is given, and should be definite and certain as to the amount to be paid and the time of payment. If the note is to bear interest, it should be so stated in the note, as shown above. If interest is to be paid each year on long time notes, the words, "interest payable annually," should be written in the note. If interest not paid is to draw interest, that must be clearly stated in the note. The person giving the note is called the maker, and the person receiving it the payee. If the payee desires to sell the note and transfer it to another, he writes across the back of the note, "Pay to the order of James Smith" (if that is the name of the person to whom he sells it), and signs his own name to this order. This signing of the payee's name on the back of the note is called an indorsement of the note. The legal effect of this indorsement is to transfer the ownership of the note to the person to whom it is made, and also obligates the payee, who is now called the indorser, to pay the note himself, in case the maker fails to pay it, provided that the new owner of the note presents it for payment to the original maker at the time it falls due, and promptly notifies the indorser that it has not been paid by the maker. If the indorser writes the words, "without recourse," above his name at the time of making the indorsement, he does not assume the obligation to pay the note if the maker fails to pay it, but does transfer the title to the note.

A due-bill is simply a short form of note, and is ordinarily used for small amounts. The following is the usual form of a due-bill: —

BOSTON, MASS., January 1, 1901.

Due John Smith, ten dollars.

WILLIAM JONES.

This is a written acknowledgment of an indebtedness, and a promise to pay it whenever the due-bill is presented for payment.

Checks and Drafts. — In all cities and in towns of any considerable importance there are banks. These banks are business institutions which deal in money and business paper representing money. Their principal business is to receive money from their customers, keep it safely in the bank, or loaned out to responsible parties at interest, and pay it back upon orders, called checks, which are used by the customers to pay the various persons with whom they may transact business. These checks are usually in the following form : —

\$150.

BOSTON, MASS., October 15, 1900.

BOSTON NATIONAL BANK :

Pay to John Smith, or bearer, one hundred and fifty dollars.

WILLIAM JONES.

This check entitles John Smith to call at the bank and get one hundred and fifty dollars of the money which William Jones had previously deposited in the bank. William Jones is in the habit of depositing in the bank from day to day the money received by him from the various people with whom he does business, and who pay him money, and of drawing checks on the bank in favor of the persons to whom his business requires him to pay money. Other merchants and business men do the same thing. The money William Jones deposits in the bank is nearly all of it in the form of checks drawn by other business men upon the different banks with which they do their banking business.

If William Jones is a merchant and desires to pay money to the manufacturer or wholesale merchant from

whom he bought goods, and who lives in a distant city, his method of making the payment is usually to go to the bank and hand it the amount of money, or a check for the amount, which he wishes to pay in the distant city, and ask for an order upon a bank in the city where he wishes to make the payment. This order is called a draft, or bill of exchange, but is substantially like a check. We here give the usual form of a bank draft:—

\$1000.

BOSTON NATIONAL BANK,
BOSTON, MASS., October 15, 1900.

Pay to the order of Bartlett Bros. & Co. one thousand dollars.

BOSTON NATIONAL BANK,
by D. B. HALLETT, *Cash'r.*

To the First National Bank of New York,
New York City, N. Y.

This draft Mr. Jones sends by letter to Bartlett Bros. & Co., whom he wishes to pay, and they take it over to the bank and receive the one thousand dollars in money for it, or deposit it with the bank in which they do business, as one thousand dollars.

So convenient are these bank checks and drafts, and so universal is their use, that it is estimated that at least ninety-five per cent of all the business transactions and payments of money among business men is accomplished by them.

Banks and Banking.—In addition to receiving deposits from their customers, and paying them out upon checks and drafts, some banks issue notes of their own, which circulate among business men, and are received and paid out the same as money. They are usually called bank-bills.

If you will examine any one of these bank-bills, you will find it to be a piece of paper upon which is printed and written a simple promise by the bank to pay to the bearer (and that means the person who has the bill) the number of dollars printed on the bill. The bank-bill is in legal effect a promissory note of the bank, similar to the due-bill, or note of an individual, heretofore mentioned. In actual practice, business men prefer to use these bank-bills as money, and carry them around in their pocket-books, rather than to have silver and gold coin. They know that by presenting them at any bank, they can obtain gold and silver for them at any time. These bank-bills are perfectly safe, because the United States government, before permitting the banks to issue them, has required the bank to deposit with the Treasurer of the United States, as a security for the payment of the bank-bills, United States bonds in value equal to or greater than the bank-bills issued. If the bank should fail and cease to do business, the bonds in the United States Treasury are sold, and the proceeds applied to paying off the bills issued by the broken bank.

The banks thus authorized to issue bank-bills under our present laws are such banks only as are organized under the United States national banking law, and they are known as national banks. In addition to the national banks, which are found in every State and territory, and which do the greater portion of the banking business for the people of the United States, there are also, in every State, banks organized under the State laws. They are known as State banks.

In legal effect, the depositing of money in a bank by its customers is the lending of the money by the customer to the bank. The bank becomes the owner

of the money, but at the same time becomes indebted to its depositors for the amount deposited by each. The bank upon its books gives credit to each customer for the money deposited by him, and charges him with the amount drawn out by the customer upon his checks. The difference between the amount deposited and the amount drawn out is the balance to the credit of the customer. It is expected that each customer, in the ordinary transaction of business from day to day, will deposit more than he checks out, thus always having a balance in his favor in the bank.

Where a bank is in good standing in a community, many people deposit money and leave it with the bank for considerable lengths of time for safe keeping, and to be able to draw it out at some future time when they may need it. The result is that the bank accumulates in its possession more money than is likely to be drawn out at any one time, and it can safely use for its own purposes a portion of this money, being careful always to keep on hand in the bank enough to meet the daily wants of its customers, and to honor their checks when presented. The manner in which the banks use this surplus money is to lend it out to merchants, manufacturers, and other business men, who may want to use it in their business, and who are able to furnish to the banks good security that the money will be paid back when needed. The profit to the banker consists of the interest upon the surplus funds in the bank which he thus lends to the business men. The practical effect is that instead of large sums of money lying idle in the bank, the greater portion of it is in constant use and circulation among the people.

Accounts. — Merchants, mechanics, and other business

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men are accustomed to keep a record of their daily business transactions in memorandum books, known as books of account. In their simplest forms the entries in these account books consist of brief statements of goods sold or work done, which are not paid for at the time. The ordinary form of an entry or charge is as follows:—

October 1, 1900.	John Smith, Dr.	
To 20 yds. muslin, @ 5 ¢		\$1.00

The various entries in the books against each customer taken together constitute his account. The account is credited from time to time with what the customer pays, and is debited, or charged, with what he obtains from the business man.

The account books, when shown to have been honestly and correctly kept, are competent evidence in court to prove the account, in case of controversy about it between the parties.

CHAPTER XI.

PRIVATE WRONGS.

Slander and Libel. — Every citizen is entitled to such good name and reputation as his conduct deserves. Every other citizen owes to him the duty not to injure or defame his character. To falsely and maliciously speak or publish of another that he has stolen a horse, or has committed some other crime, or that he is dishonest in business, or corrupt in his administration of a public office, is a wrong to that person. If the evil words are spoken of him, it is slander; if written or printed of him it is libel. But to constitute slander or libel the language or writing must be made public, that is, the slanderous words must be spoken in the presence and hearing of some one other than the person against whom the words are uttered; and the libellous words must be sent to some person other than the person libelled, or printed in a newspaper, or otherwise made public. To write a letter to a man, or speak to him when alone, falsely calling him a thief, is not libel or slander, because not made public; or, if made public, it would be by the person himself to whom the letter was sent showing it to others, or by himself telling others of the slander.

The redress for slander is by civil action for damages, brought by the person injured against the slanderer; for libel, it is a civil action for damages, or a criminal

action, as for misdemeanor. Slander is not considered a crime, but libel is, because what is written or printed is more permanent and subject to greater publicity, and indicates more deliberation and malice than oral utterances. Slander may be the result of sudden provocation, and uttered in the heat of passion. But to compose and write and publish a libel usually requires time, method, and malignancy of purpose sufficient to make it a misdemeanor, and punishable by fine or imprisonment in the county jail.

A person accused of slander or libel is always entitled to show the truth of the oral or written statements made by him as a defence, and that the publication was for justifiable ends, and not malicious. If in fact a man is a thief, that may be shown as a defence to the charge of calling him a thief.

In this country there is great freedom of speech and liberty of the press. Both are essential to the development and permanency of our system of civilization and government. But the liberty of the press sometimes degenerates into libel, and freedom of speech into slander. The law relating to slander and libel stands, therefore, as a safeguard for the protection of the people.

False Imprisonment and Malicious Prosecution.—Every citizen owes to every other citizen the duty of refraining from causing him to be imprisoned or prosecuted for a crime of which he is innocent. While it is the duty of every citizen to assist in causing the guilty to suffer the just punishment provided by law for offences committed, it is a duty to be exercised with prudence. Great care must be taken that the innocent be not disturbed. No person has a right to cause another to

be imprisoned or prosecuted except upon reasonable grounds of suspicion, and with justifiable motive.

If such imprisonment or prosecution be without probable cause and from malicious motives, and the accused be acquitted, he may then bring suit for damages against the person who caused his imprisonment or prosecution, and thus redress his own wrong and cause his accuser to be punished. But even if acquitted, it does not necessarily follow that the accused can successfully maintain a damage suit. The burden is upon him to show two things: first, that the prosecution was malicious; and, second, that it was begun without probable cause. If these two elements are present, he is entitled to damages; if either is absent, his suit must fail. Malice may be inferred from want of probable cause, that is, if the accused clearly established that there was no probable cause for his arrest and imprisonment, and that the person who caused it knew of such want of probable cause, it would be proper for a jury to infer that the accuser acted through malice in causing the prosecution. But want of probable cause cannot be inferred from the existence of malice.

It is a defence to a damage suit of this kind for the person sued to show that there were reasonable and proper grounds of suspicion to justify the arrest, and that the complaining witness causing the arrest did so without malice toward the accused.

If every person arrested for crime could, when acquitted, maintain a damage suit for false imprisonment or malicious prosecution, it would be unsafe for a citizen to make complaint, and punishment for crime would not be likely to be meted out to the guilty, because the citizen would be unwilling to incur the

risk of instituting the necessary criminal prosecution.

Deceit and Fraud. — It is a private wrong for one person to wilfully cheat and defraud another in the transaction of business with such other person. If he does so, the person injured may always have redress by an action for damages. The law expects, however, that in the transaction of business each citizen will look out for himself, and protect himself so far as he can reasonably do so, without recourse to a damage suit. In the sale of a horse, or a farm, or other property, the seller may properly point out the good qualities of his property, and he is not required to point out the blemishes and defects which the buyer could discover for himself by reasonable observation and attention. What he does say, however, must be true. If the horse has an eye missing, or the farm a ledge of rocks, or a swamp, on it in plain view, it would be the buyer's own fault if he failed to notice such defects, and purchased in ignorance of them. But if the property purchased is at a distance, and the buyer has no opportunity to examine it, it is the duty of the seller to make a full disclosure, and he must state the defects as well as the good points; and if he fails to do so, he is guilty of deceit, although all he says in praise of the property may be true. Silence as to the defects, under such circumstances, is equivalent to a statement that there are no defects.

In order to establish a breach of the duty not to practise deceit upon another in business, there are five elements, all of which must be present: —

1. There must be a false representation of material facts, or a concealment of material facts under circumstances equivalent to a false representation of them.

2. Such false representation must have been made with knowledge of its falsity.

3. The person to whom it is made must be ignorant of the falsity and believe it to be true.

4. It must have been made with the intent that it should be acted upon.

5. It must have been acted upon by the person to whom made, and to his injury.

To show the application of these elements, let us suppose that A in selling a horse to B says, "This horse is perfectly sound." B buys the horse, pays for him, and takes him home. If the horse proves to be unsound, and B brings suit against A for deceit in the sale, in order to succeed he must show that A made the representation that the horse was sound at the time and as a part of the transaction of sale; that the statement was false; that A knew that the horse was unsound; and that he, B, did not know it; and that he believed A's statement, and paid more for the horse than the horse was worth in his unsound state.

If in his examination of the horse at the time of the sale B had discovered the unsoundness of the animal, he would be defeated in his suit against A because, having this knowledge, he was not deceived by the false statement.

Negligence.—No one has a right to inflict injury upon another by reason of carelessness and negligence; and if he does, he may be called upon to respond in damages for the injury. The negligence here spoken of means a want of such reasonable care as an ordinarily prudent man gives to his own affairs.

An employer owes to his workmen the duty to furnish them with a reasonably safe place in which to work, and

reasonably safe tools and appliances with which to do the work.

Telegraph companies must exercise reasonable diligence and care in sending messages. Unnecessary delays in transmission, or failures to send messages accurately as written, if damage result, will make the companies liable.

Railroad companies owe to passengers the duty of avoiding negligence in the operation of their trains, because of the dangers of the high rate of speed employed.

A physician owes to his patients the duty, first, of having acquired the professional knowledge and skill used in the practice of medicine; and, second, the ordinarily prudent and diligent use of that knowledge and skill when called upon to attend and prescribe for his patients. A doctor is not required, at his peril, to effect a cure; but he must exercise the ordinary skill of his profession, and not neglect his patient.

Lawyers are held to the same requirements as to skill and diligence as physicians are. They must have studied law, and have acquired the ordinary skill of their profession, and must exercise reasonable care and diligence in conducting the lawsuits and transacting the other business of their clients.

Jewelers, dressmakers, carpenters, plumbers, master masons, and all other skilled workers are required to possess the special knowledge of their trade or business, and then to exercise reasonable diligence in the exercise of it.

Nuisances.—Every citizen owes to every other citizen the duty not to pollute the air he breathes. Slaughter-houses and soap factories are necessary, but they ought

not to be established close to the dwelling-house of another.

Every citizen has the right to have the free and uninterrupted flow of the running brook, creek, or river through or adjacent to his premises, if nature has so provided. The man living above him on the stream has the right to use as much of the water as he needs for the ordinary use of himself and family and domestic animals; but he has no right to stop the flow of the water, or to divert it out of its accustomed channel, so that it will not run down to the next neighbor below. That neighbor in turn has the right to use what he needs for domestic purposes, but must let the stream go on to the next neighbor, and so on throughout the entire course of the stream. These water rights, if along the banks of rivers, are called in law riparian rights, and the successive owners of the land along the river are called riparian owners.

No one has the right to pollute the running water by throwing into the stream the carcasses of dead animals, or other offal, or filth. To do this is not only a private wrong to the individual citizens who live down the stream, but is also a public offence, as we have already seen in this book.

Every citizen has the right to have the public highway unobstructed so that he may safely use it by night or by day. To dig a ditch across the road, or pile up stones in it, or erect a fence across it, or in any other way obstruct the road is a public nuisance; and it is also a private wrong to any one who, in the lawful use of the road, is injured thereby.

The private wrongs herein mentioned do not include all the injuries to individuals which are the subject of

redress by action for damages, but they sufficiently illustrate what is meant by this chapter. Any wrong to another done intentionally or negligently, by which that other suffers damage, is included in the general definition of a private wrong, or a tort, as it is called in the law books, and is under the ban of the law.

In cases of negligence, if the person complaining is himself guilty of negligence, contributing directly to the injury received by him, the law will not aid him in recovering damages from the other person, although that other person may have been guilty of what would have been actionable negligence without the injured one's contribution thereto. A person, accordingly, whose team is struck and horses killed by a passing engine at a railroad crossing of a public road, cannot recover damages for the loss of his team, if he has driven on the track without having first looked to see whether or not a train might be crossing, even though the engine might have been driven at a high rate of speed, and no whistle sounded, or bell rung for the road crossing.

REFERENCES.

Refer to the General Statutes under the titles contained in the side heads to this chapter for additional information about the matters mentioned herein.

CHAPTER XII.

ADMINISTRATION OF JUSTICE.

THE first duty of the government is to preserve order; its second is to administer justice. To administer justice is to protect the citizen in life, liberty, and property. It includes the enactment of suitable laws, and the proper enforcement of them.

The object of the government is to protect the individual. It is created for that purpose. Whenever one citizen is aggrieved by any other citizen, or by any department or officer of the government, he has the right to call upon the department of justice for redress.

The redress of grievances, public and private, constitutes the mission and work of the courts. In every city there is a police court; in every township there is a court of the justice of the peace; in every county, a county or probate court. These are the local courts of limited jurisdiction.

Besides these local courts, there are held at the courthouse in every county in every State regular terms of a circuit or district court. This is the court of general jurisdiction, having cognizance of all matters in controversy, civil and criminal, except those committed to the local and inferior courts. And as to them, this general court exercises a supervisory power by having jurisdiction of proceedings in error and appeal from those courts.

Still higher than the circuit court, and the highest in

the State, is the supreme court. In the State of New York the name given to this highest of the State courts is the court of appeals. The supreme court in each of the States is known as the court of last resort. It is the court to which appeals and proceedings in error are taken from the circuit or district courts. Its decision is final. There is one exception to the finality of a judgment of the supreme court of any State. If in any lawsuit in the State supreme court the legality of any Act of Congress or treaty of the United States is drawn in question, and the decision is against such legality, or if the validity of any State law is drawn in question as being in contravention of the Constitution of the United States, or any Act of Congress, or treaty of the United States, and the decision is in favor of the State law upon any one of those grounds, such decision may be reviewed by the Supreme Court of the United States, by a writ of error from the State supreme court to the United States court. The reason for this is because all questions arising under the Constitution of the United States, the Acts of Congress, and the treaties made by the United States should be decided by some one tribunal authorized to speak for all the people of all the States, instead of by a court authorized by the inhabitants of only one of the States.

In addition to the courts provided by the States, the United States government also provides for the people courts of its own in which are settled controversies between people of the different States, and questions arising under the administration of the laws of the United States. These courts are described elsewhere in this book.

How the Courts perform their Work. — Of their own

volition courts do nothing. Any one who has a grievance and desires the action of the court upon it, is privileged to bring his grievance to the proper court and have it heard. If it is a small matter, and the amount in controversy is less than three hundred dollars, or if it relates to a misdemeanor, the case may be heard before a justice of the peace of the township. But the large majority of cases are tried in the State courts of general jurisdiction, that is, the district or circuit courts.

The first step in the adjustment of a controversy in court is to get the machinery of the court in motion. This is done by the person aggrieved delivering to the clerk of the court a statement in writing of what he claims to be the facts, and asking the court to grant the relief to which he thinks himself entitled. This statement is, in some of the States, called a complaint; in others it is called a petition. Delivering it to the clerk is called filing it in court. The person making the complaint is called the plaintiff; the person against whom the complaint is made is the defendant.

Upon the filing of the petition, the clerk issues a notice in writing to the defendant, informing him that complaint has been filed against him, and that he must answer the petition, or judgment will be rendered against him. This notice is called the summons. It is signed by the clerk and attested with the seal of the court, and delivered by the clerk to the sheriff for service. The sheriff serves the writ by delivering to the defendant a copy of the summons, or leaving it for him at his residence or place of business.

In some of the States, the defendant has until the first day of the next regular term of the court after issuance of summons before he is required to answer

the plaintiff's petition. In other States, the answer is due, and must be filed in court, within thirty days after summons. The answer is a statement in writing by the defendant of his defence to the plaintiff's petition, and if he has a counter-claim for relief against the plaintiff, that is also stated in the answer. To this answer the plaintiff may file a reply. The written statements of the parties filed in the case are called the pleadings. The trial in court will be confined to the things stated in the pleadings.

The case is now ready to be submitted to the judge and jury. But this cannot be done until the court shall be in session. There are usually three or four terms of court each year. Before the term begins, the clerk makes a list of all the cases for hearing in a book kept for the purpose. This book is known as the trial docket.

When the case is called for trial, it is expected that the plaintiff and defendant, with their witnesses and their lawyers, will be present. A jury is then selected, and sworn "to well and truly try the cause, and a just verdict render, according to the law and the evidence."

The method of obtaining a jury is substantially as follows:—

Each year, usually in March or April, the trustees of the townships and the mayors of the incorporated cities in the county make out and send to the county clerk lists of the names of suitable citizens of their respective townships and cities to serve as jurors for the year. It is required that the persons thus listed shall be legal voters and taxpayers, and persons of fair character, average intelligence, and approved integrity, and in possession of their natural faculties. The number included in the jury list is usually one juror for

each fifty or one hundred voters and taxpayers in the townships and cities.

Upon receiving the jury lists, the county clerk writes out the names of the jurors on separate pieces of paper of the same size and appearance, and folds them so as to conceal the names, and drops the papers into a box provided for the purpose, called a jury box. At least thirty days before the beginning of each term of court the county clerk, in the presence of the sheriff and two justices of the peace of the county, draws out from the jury box, after shaking it well in order to mix up the names of the jurors, as many slips of paper as there are jurors ordered for the term, usually twenty-four or thirty-six. The persons whose names are thus drawn from the jury box are summoned by the sheriff to appear before the court for service as jurors for the term.

The following persons are, usually, exempt by law from service as jurors: physicians, ministers of the gospel, firemen, professors and teachers in colleges and schools, attorneys and counsellors-at-law, all State and United States officers, and all persons over sixty years of age.

For each particular lawsuit twelve of the jurors for the term are taken, and they constitute the jury to try the case. If any of the jurors have any interest in the suit, or have formed or expressed any opinion about the case, or are relatives of the plaintiff or defendant, or are prejudiced against either of them, such jurors are excluded and others taken until twelve are found who are wholly disinterested, impartial, and with no previous knowledge of the matters in controversy.

The Trial. — The jury having been chosen and sworn,

the attorneys for plaintiff and defendant each make a short statement to the court and jury, setting forth the substance of the pleadings, and explaining the respective sides of the controversy.

The plaintiff then calls his witnesses, who, before being examined, are sworn "to testify the truth, the whole truth, and nothing but the truth." Each witness is examined by the plaintiff's lawyers, and cross-examined by the lawyers for the defendant.

The defendant then produces his witnesses, who are sworn and testify. If plaintiff has any witnesses to rebut the testimony of defendant's witnesses, plaintiff may introduce their evidence after the defendant is through. This closes the evidence. The judge now instructs the jury. It is one of the foundation principles of our American law that the jurymen are the exclusive judges of the facts and of the credibility of the witnesses. But they are not expected to know the law. It is the province of the judge to explain to the jury in each case the law by which they are to be guided in their deliberations, and it is the duty of the jury to accept the law from the court. In many of the States the instructions, or charge to the jury, as such instructions are called, are required to be in writing. In others the judge may instruct the jury orally.

Before the case is finally submitted to the jury for its decision, the attorneys for plaintiff and defendant argue the case, that is, they talk to the jury, commenting on the evidence and the law applicable to the case, and present such arguments in favor of the case of their respective clients as they consider warranted by the evidence.

The jury now retire to a room by themselves, under

the charge of the sheriff, or a bailiff of the court, where they are locked in, the bailiff remaining on the outside with the key, and keeping within call of the jury. The jury now in the privacy of the jury room talk the case over, argue it among themselves, and decide for the plaintiff or for the defendant, as the case may be. The jury usually commence their work by electing one of their number foreman. As foreman, it is his duty to preside over the deliberations of the jury, as a chairman does over a meeting of citizens. The decision of the jury is ordinarily determined by ballot; and no decision can be made until the entire twelve agree upon what it shall be. When a unanimous decision is arrived at, it is reduced to writing, and signed by the foreman. This decision is called a verdict. If the verdict be for the plaintiff, it is in substance as follows:—

“We, the jury, do find for the plaintiff, and assess his damages at . . . dollars.

“JOHN SMITH, *Foreman.*”

If for the defendant, it is so stated in the verdict.

The jury having made its decision, it is now conducted back into the presence of the judge in the court room, and the verdict is read in open court, and the jury discharged from further duties in the case.

If the verdict is for the plaintiff, as above shown, the court makes and enters on the records of the court an order requiring the defendant to pay to the plaintiff the amount of the verdict and the costs of the lawsuit. This order is a judgment. We have now reached the end of the controversy. Each of the parties to it has had his day in court. A fair hearing has been had. Twelve citizens of the county, with the aid of the court

and the assistance of counsel representing each party, have considered every phase of the case, and have unanimously agreed upon a decision. It would seem that every reasonable precaution had been adopted by the law to administer justice and arrive at a true judgment. But it is possible that the judge may have erred in stating the law, and thus have misled the jury. It is also possible that the jury may not have fully understood the instructions, or may have made a mistake in computation, or for some other reason may have rendered a wrong verdict. In order to guard the settlement of controversies by law from every possibility of an erroneous judgment, appeals and proceedings in error are provided for. These are for exceptional cases. The trial by jury and the judgment of the court in accordance with the verdict, and the carrying out of the judgment, ordinarily ends the controversy. It is the duty of the defeated party to submit to the judgment, unless he appeals the case to a higher court.

If the verdict is clearly wrong, the court in which it is rendered will set it aside on motion of the party against whom it is rendered, and order a new trial.

If the jury cannot agree upon a verdict, and are discharged because they cannot agree, a new trial is ordered.

If the defeated party refuses or neglects to pay the judgment, the court issues an order to the sheriff, commanding him to seize enough of the property of the judgment debtor to pay the judgment and costs, and sell it at public auction. This order is called an execution, because it is by it that the judgment is carried out or executed.

Criminal Trials. — In criminal trials, where the ques-

tion in dispute is whether the defendant is, or is not, guilty of a crime, the method of conducting the trial is similar to that already described, with certain important differences, which will now be stated.

The State is the plaintiff, and the accused citizen is the defendant. The public prosecutor is the plaintiff's attorney. The defendant is always entitled to a jury. If the defendant is too poor to hire a lawyer, the judge of the court appoints an attorney to defend him, from the members of the bar in attendance at the term of court. The law presumes the defendant to be innocent; and he may safely rely on this presumption as a protecting shield, until the State produces evidence sufficient to remove it. The defendant is never required to prove his innocence. Not only must there be a unanimous verdict of all the twelve jurors against him, but before the jury has a right to agree upon such a verdict they must be satisfied from the evidence beyond a reasonable doubt that the defendant is guilty. If, after hearing all the evidence, there is any reasonable doubt concerning the guilt of the defendant in the mind of any juror, it is his duty to vote for acquittal, so highly does the government favor the liberty of the citizen.

It is sometimes urged against the administration of our American criminal laws that the government is too lenient with the accused; that it gives him too great an advantage upon the trial. The sufficient answer to this objection is that our government does not wish to punish the innocent, and would prefer that many guilty ones should escape, rather than have one innocent man convicted of crime.

Formerly, it was the law that a defendant in a criminal case could not be a witness in his own behalf, i'

being presumed that his interest in the suit would induce him to commit perjury by denying his criminality when guilty. But in administering our American law, the rule is to permit the defendant to be a witness for himself, or decline to be a witness. He cannot be compelled to be a witness against himself.

If the defendant chooses not to be a witness for himself, the prosecuting attorney is not permitted to comment upon that fact in his argument to the jury, nor to mention it during any stage of the trial. And the court will instruct the jury, if requested by the defendant, that the fact of his declining to be a witness for himself raises no presumption of guilt, and must not be considered by the jury.

If the defendant in a criminal trial is convicted, he has an absolute right of appeal to the reviewing court, if he chooses to exercise the right. Upon final conviction, however, he must suffer the penalty provided by law for the offence.

QUESTIONS AND SUGGESTIONS.

Go to the court-house some Saturday when the court is in session, and see for yourselves how lawsuits are tried, and how the business of the court is conducted.

Organize the class into a court, and try a lawsuit.

CHAPTER XIII.

ELECTIONS.

THIS government belongs to the American people. They created it; they made it what it is; they own and control it; and they choose the officers by whom it is administered, from the President of the United States and members of Congress to the justices of the peace and constables of the township.

It is an old maxim that that government is best which is best administered. If our American government is ever wrecked and destroyed, it will be because the people have been neglectful of their duties as citizens, and have not chosen proper officers to administer it. It is essential to the welfare of the government that honest and capable officers be chosen to conduct it.

Each citizen participates in the exercise of the sovereign powers of the government by the use of the ballot. The ballot-box is said to be, and is, the palladium of American liberty. The highest exercise of citizenship is voting. At the polls on election day the President of the United States votes like any other citizen, and his vote counts as much but no more than the vote of the day laborer. In fact, several of the Presidents commenced life as day laborers.

General elections are held in nearly all of the States annually, usually on the first Tuesday after the first Monday in November of each year.

At the general election, all of the officers of the State,

county, and the members of the legislature, and officers of the judicial districts who are to be elected that year, are included in one ballot and voted for at the same time. Take the year 1900 as an illustration. This being a presidential year, there were voted for at the general election the electors for President and Vice President, members of the House of Representatives of Congress; and, in a large number of the States, the governors and other State officers, members of the legislature, and, in addition thereto, county officers and township officers.

The method of conducting a general election is substantially as follows:—

Each township in the several counties in a State, and each ward in an incorporated city, unless it be further subdivided by law, constitutes an election district. There is provided for each election district a ballot-box, or receptacle, into which the ballots are cast.

Each voter is entitled to cast one vote for each officer to be elected, and is entitled to have his vote counted as cast. The place of voting is called the polls. The polls are usually open from eight o'clock in the morning until six o'clock at night. In some of the States the polls are opened at an earlier hour in the morning. In all of the States they are kept open substantially all day. The names of all the persons for whom the voters desire to vote are written or printed upon one piece of paper. This piece of paper is called the ballot. No person is allowed to cast more than one ballot. By having the names of all the officers for whom the voter may desire to vote upon this one ballot, and by depositing it in the ballot-box, he casts one vote for each of *the* officers to be chosen at that election. The name of

each voter, at the time he casts his ballot, is taken down by the clerks of the election in two duplicate manuscript books provided for the purpose of the election. These books are called poll books. A voter is under no obligation to inform the judges and clerks of the election or the bystanders for whom he is voting. Under the Australian ballot law, which is in use in a large number of the States, the voter in preparing his ballot steps into a little booth by himself, and places a little cross, or check mark (x), opposite the name of each candidate for whom he desires to vote, and then folds the ballot, so that no one can see for whom he has voted. On emerging from the booth, the voter hands his folded ballot to one of the judges of the election, who, in the presence of the other judges and in the presence of the voter, drops it into the ballot-box. After the polls are closed in the evening, the judges and clerks of the election open the ballot-box, take out the votes, count the number of votes cast for each of the candidates, and make in the poll books a record of the whole number of votes cast at the election in that election district, and the number of votes cast for each candidate. This is called canvassing the votes. After canvassing the votes, the judges and clerks enclose in an envelope or sealed package one of the poll books, and the ballots carefully strung on a strong thread and tied together, and one of the judges delivers this sealed package containing the poll book and ballots to the county clerk. The other duplicate poll book is kept in the election district.

Usually on the Friday next following the election, the county commissioners and the county clerk proceed to open the election returns from all the townships and election districts, and determine the number of votes

cast in the entire county for the different officers voted for at the election. The county clerk makes a record of the result of the election as determined by the county commissioners. As to the county and township officers voted for at the election, the county commissioners determine and declare who are elected, and the county clerk issues to the successful candidates certificates of their election.

As to the State and judicial district officers voted for, and as to the presidential electors and congressmen, the county clerk makes an abstract of the number of votes cast in the county for each candidate, and certifies the same to the secretary of state under the seal of his office and under oath. After the election returns from all the counties are received by the secretary of state, the State board of canvassers, which usually consists of the governor, secretary of state, auditor of state, state treasurer, and attorney general, canvasses these returns from the several counties, and determines and declares who have been elected to the several State offices and as members of Congress in the several districts, and certificates of election are issued to the successful candidates by the secretary of state.

The State board of canvassers also determines the number of votes cast in the entire State for, and who are elected as, the presidential electors. The secretary of state then prepares a list of the presidential electors, and he and the governor sign the same, and the secretary delivers it to one of the electors.

On the second Monday in January, after the general election, in each of the States the electors meet at the respective capitals, and proceed to vote for the President and Vice President of the United States, and per-

form the duties required of them as members of the electoral college, by the Constitution and laws of the United States. These duties are explained elsewhere in this book.

The judges and clerks of election, who have charge of the polls in each election district, constitute the election board. This election board usually consists of three judges and two clerks, appointed for the purpose by the township trustees in the county and by the mayors in the cities. Before opening the polls, the members of the election board are required to take and subscribe an oath to faithfully and honestly perform their duties as such judges and clerks. If the judges and clerks appointed are not present when it is time for the polls to be opened, the voters select others to take their places, and open the polls.

No one who is not a legally qualified elector, or voter, of the election precinct is permitted to vote. If a man whose qualifications to vote are unknown, or under suspicion, offers his ballot, any one present at the polls may object to his voting. This objection is called challenging the vote. When a vote is challenged, the judges administer to the man offering to vote an oath requiring him to answer truthfully all the questions that may be asked him touching his right to vote.

He is then examined by the judges. From his answers the judges decide whether he is or is not a legal voter; and in accordance with such determination receive or reject his vote. If the man makes false answers and thus obtains the privilege of voting and votes, when he is not in fact a legal voter, he has committed the offence of illegal voting, for which he may be arrested, tried, and punished by fine or imprisonment.

If the judges of the election wilfully refuse to permit a qualified elector to vote, or wilfully receive the vote of an unqualified elector, it is also an offence against the election laws.

Before entering upon the duties of their offices, the persons elected are required to qualify by taking an oath to support the Constitution of the United States, and the constitution of their State, and to faithfully discharge the duties of their respective offices, and by giving such bond as may be required by law to further insure the faithful discharge of their official duties.

Political Events prior to the Election.— The election is the culmination of the political events of the year. It not only decides upon the individuals who shall administer the offices of the government, but also decides to what one of the parties the reins of government shall be intrusted.

In every State and county there are political parties. These are voluntary associations of citizens for political purposes; they include substantially all of the voters in every community. No formality, or application for membership, or action of the party organization, is required to enable a citizen to become a member of any political party. A simple announcement of his intention to vote for the principles and candidates of a particular party at the ensuing election is sufficient to entitle him to active membership and give him the right to vote at the caucuses and primaries of that party. The citizen may change from one party to another at his pleasure; and he may refuse to belong to any party. Such is the inertia and conservatism of the human mind, however, that it is customary for the citizen to retain his membership in the same party from year

to year, and often from early manhood to old age. Notwithstanding his adherence to his party, the citizen may, if he chooses, at the election, refuse to vote for any one or more of the candidates upon the ticket of his own party, and vote for the corresponding candidate upon the ticket of some other party; or he may leave the place or places vacant on his ballot, voting for no one for such offices. In this way the independent voter sometimes shows his disapprobation of the choice of his party for particular candidates. But ordinarily the custom is for each voter to cast the full ballot of his party, where the candidates have been selected without fraud, and in accordance with the usages of the party.

There are in the United States about 15,000,000 voters. All of these millions, with the exception of less than five per cent, voted for the candidates of the Republican or Democratic parties at the presidential election of 1900. Between these parties the voters then and now are nearly equally divided. At the election of 1896 the Republican candidate for President received 7,104,779 votes, and the Democratic candidate received 6,502,925 votes.

In 1900, McKinley (Republican) received 7,208,244 votes; Bryan (Democrat) received 6,358,789; Woolley (Prohibition) received 209,936.

The Republican party is the successor of the Whig party of 1833 to 1852 and the National Republican party of 1828, whose platform was dominated by the broad constructional views of Alexander Hamilton. At the presidential election of 1856 the Whig party disbanded and had no candidate, the present Republican party taking its place with John C. Frémont as its first candidate for President.

The Democratic party is the successor of the Republican party, founded by Thomas Jefferson, from about 1792 to 1828, and since then has been known as the Democratic party.

During and since the days of Hamilton and Jefferson, two different views of our national Constitution and government have prevailed. One known as the "strict constructionist," or "States' rights" view, has been to concede to the general government as little, and reserve to the States as much, power as the Constitution will justify. The "liberal construction" or "Federal" view of the Constitution has been to interpret the powers granted to the general government so liberally as to include therein all the essential powers necessary to the sovereignty of a great and growing nation. The particular portion of the Constitution upon which the people have divided in their views is Clause 18, Section 8, Article I. Section 8 consists of an enumeration of the powers granted to Congress. Clause 18 of this section is as follows:—

"18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof."

This is sometimes called the elastic clause of the Constitution, because many Acts of Congress whose constitutionality has been questioned have been upheld only by the liberal construction given to this clause of the Constitution.

The Supreme Court of the United States in *Martin vs. Hunter's Lessee*, 1 Wheaton's Reports, 304, 326, makes use of the following language:—

"The government of the United States can claim no powers which are not granted to it by the Constitution; and the powers actually granted must be such as are expressly given, or given by necessary implication. On the other hand, this instrument, like every other grant, is to have a reasonable construction, according to the import of its terms; and where a power is expressly given in general terms, it is not restrained to particular cases, unless that construction grows out of the context expressly or by necessary implication. The Constitution unavoidably deals in general language. It did not suit the purposes of the people in framing this great charter of our liberties to provide for minute specifications of its powers, or to declare the means by which those powers should be carried into execution. Hence its powers are expressed in general terms, leaving the legislature from time to time to adopt its own means to effectuate legitimate objects, and to mould and model the exercise of its powers as its own wisdom and the public interests should require."

In the case of *Gibbons vs. Ogden*, 9 Wheaton, 1, the Supreme Court, through Chief Justice Marshall, uses the following language in speaking of the Constitution:—

"This instrument contains an enumeration of powers expressly granted by the people to their government. It has been said that these powers ought to be construed strictly. But why ought they to be so construed? Is there any one sentence in the Constitution which gives countenance to this rule? In the last of the enumerated powers, that which grants expressly the means for carrying all others into execution, Congress is authorized to make all laws which shall be necessary for the purpose. But this limitation in the means which may be used is

not extended to the powers which are conferred; nor is there one sentence in the Constitution which has been pointed out by the gentlemen of the bar, or which we have been able to discern, that prescribes this rule. We do not, therefore, think ourselves justified in adopting it."

It is the custom for the parties to select their candidates to be voted for at the election several weeks, and sometimes several months, before election day. The selections are made by conventions composed of delegates selected by the voters in the several States, counties, townships, and wards of the cities, at meetings or caucuses, as they are called, or primary elections for the purpose. The business of a political convention is to declare the principles of the party, and to select the candidates to be voted for at the ensuing election. The declaration of the principles of a party is called its platform. The platform is in the nature of instructions by the people to the candidates, and, if they are elected, to them as officers in regard to the views of the people upon the questions upon which it will be their duty to act as such officers.

It is at the caucuses and primaries that the individual voter has the greatest power in determining who shall be the officers to administer the government. After the nominations are made, and the candidates are selected by the different parties, the voter has left a choice between the candidates of the different parties, and that is all. If he has omitted to attend the primaries and the caucuses, he has had no voice in the selection of the candidates to be placed on the ticket. This is, of course, the important matter in the choice of the officers.

It is the duty, as it is the highest privilege, of the citizen to take an interest in politics; to attend the prima-

ries and caucuses of the party to which he chooses to belong ; and to vote at every election.

QUESTIONS AND SUGGESTIONS.

Go to the polls on election day and see how the voting is done. Go to the county clerk's office and see one of the official ballots used at the last election. You may be able to get enough of the unused ballots left over from the election to supply one to each member of the class. Attend the next political meeting held in your town. Go to the next caucus of your political party held in the ward of the city or town in which you live.

CHAPTER XIV.

TAXATION.

THE necessary expenses of maintaining the United States government amount to more than one million dollars a day. The expense of the State, county, city, township, and school district governments in each of the States amounts to many hundred thousand dollars annually. Outside of the public lands, which are nearly all disposed of, the public buildings at Washington and elsewhere, the forts and arsenals, and the like, the United States government has no property. In times of war the expenses of the government are enormously increased, and public debts are created. The public debt of the United States is in excess of the value of all the public buildings and other property owned by the United States. If it were not for the power which the government has to raise money by some form of taxation, it would be bankrupt, and unable to transact the public business, and would necessarily cease to be a government within a short time. If the State, county, city, and township governments had no power to raise money to provide for their support, they too would be bankrupt and compelled to stop business. Without the power to raise money for public purposes, there would and could be no government.

The government having no property of its own from which to derive money for its daily expenses, requires all of its citizens to contribute, directly or indirectly, a

sufficient sum of money to meet the public expenses. In our American government there are so many people, and they have so much property, that the amount required of each is but a very small proportion of his earnings and accumulations of wealth. The power to compel these contributions is called the power of taxation. The money thus raised constitutes what is known as taxes. In the States, the taxes are raised by requiring each citizen to pay each year a small percentage upon the value of the property, real and personal, which he possesses. This is called a direct tax. It is assessed directly upon the property of the citizen. In addition to this tax on his property, each able-bodied citizen, between the ages of twenty-one and forty-five years, is required to pay a small capitation, or poll tax, as it is called, by either working himself upon the public roads or paying some one else to work for him a few days each year. The national government obtains its revenue for the public expenses by requiring those who import articles from foreign countries, to be sold in this country, to pay a certain fixed amount upon every article imported, in return for the privilege of bringing it into this country and offering it for sale. This is a method of indirect taxation, whereby the tax is levied on the commodities thus brought into this country, before they reach the consumer, and are paid, not as taxes, but as the market price of the imported goods. The importer, when he comes to sell the goods, adds to the price at which he could otherwise afford to sell the goods the amount, or a portion of the amount, which he has been required to pay the government for the privilege of bringing them into this country. The amounts he thus pays are called duties, or imposts. The laws of Con-

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gress prescribing the duties to be paid, and providing for the collection of them, are called the tariff laws of the country. The duties on the foreign commodities are frequently spoken of as the tariff on them.

Another method employed by the national government to obtain revenue for the public expenses is by a tax assessed upon the manufacture and sale of spirituous and malt liquors, and tobacco in the form of cigars, smoking and chewing tobacco, and snuff. The laws of Congress regulating this tax and providing for its collection are called the internal revenue laws. They are also called excise laws. The national government has still another method of increasing its revenue by what is known as the stamp tax. This is a requirement providing for the affixing of what is called an internal revenue stamp, purchased from the government, upon all deeds, mortgages, checks, drafts, bonds, notes, bills, and other legal documents, and also upon packages or bottles of patent medicine, and various other proprietary articles. The United States government could also levy direct taxes in any amount necessary to produce sufficient revenue for all its needs.

The power of taxation is one of the essential attributes of sovereignty, and is limited only by such constitutional and statutory provisions as the people have seen fit to enact.

Under our American government, taxes can be levied and collected for public purposes only. For the national government, the public purposes for which Congress has the power to levy and collect taxes are to pay the debts and provide for the common defence and general welfare of the United States. This includes the power to raise and support armies; to provide and maintain a

navy; to provide for calling forth the militia; to execute the laws of the Union; to suppress insurrections and repel invasions; to establish post-offices and post-roads; and to provide all other means and agencies for carrying on and maintaining the several departments of the government.

In the State governments, the public purposes for which taxes may be lawfully imposed may be stated as follows:—

1. To preserve public order.
2. To provide for the enforcement of civil rights and the punishment of crimes.
3. To pay for the services of public officers and others who perform services for the public.
4. To pay the expenses of legislation and the administration of the laws.
5. To provide for the maintenance of the public schools.
6. To maintain asylums for the blind, the deaf and dumb, the insane, and for other public charities.
7. The relief of the poor.
8. The establishment and maintenance of public roads, including bridges.
9. The public health, including necessary sanitary and quarantine regulations.
10. Public libraries and public parks.

As to the purposes named above, there is little difference of opinion among the people, and not much conflict in the decisions of the courts, as to the fact that each and all of them are proper subjects to be maintained by taxation.

Under our government, religious instruction is not included among the proper subjects for support by

public taxation. Churches, Sunday-schools, missionary societies, Christian Endeavor Societies, Epworth Leagues, and other societies and organizations intended for the support of public worship and the dissemination of religious instruction, are maintained in this country by the voluntary contributions of the people. That they are as well maintained as they are is an evidence of the enlightenment and devotional spirit of the citizens.

The establishment of manufactories and other private business enterprises by individuals or corporations do not come within the definition of public purposes for which money may be raised by taxation.

The construction and maintenance of railroads, especially in the Western States, at a distance from the markets and shipping ports, partake so largely of a public purpose, and are so essential to the public needs, that laws providing for the issuance of bonds by counties and municipalities, in aid of railroads, have in many of the States been upheld by the courts as coming within the purview of the right of taxation.

It is not one of the functions of the American government to furnish amusement to its citizens. Fourth of July celebrations, pageants, parades, fairs, and other amusements are provided for by voluntary contributions. The public money raised by taxation cannot properly be used in furtherance of mere amusement.

The maintenance of public parks in cities by taxation is justified because they minister to the public health. The support of public libraries by municipal taxation is based upon the same consideration as the support of the public schools, that is, the general education and enlightenment of the people.

The State, county, township, city, and school district

taxes are levied and collected annually. The first step in the taxation is to vote the tax. Under our government this is done by the people themselves, acting either directly at the annual school meeting, or township meeting, or by their representatives, the mayor and city council for the city, the county commissioners for the county, and the legislature for the State. With us taxation and representation go hand in hand. The people who pay the taxes are the ones who determine the amount, make the levy, and through their agents collect it. The result is, that the taxes in this country are equitable, and not excessive. The burden of paying the taxes is distributed among all the people in accordance with the amount of property owned by them. The wealthy citizen can well afford to pay a larger amount of taxes than his poor neighbor because he has more property requiring protection at the hands of the government.

All property of every kind in every community is subject to taxation, with certain exceptions which will now be mentioned.

Churches and school-houses and other buildings used exclusively as places of public worship, and for the accommodation of the public schools, are exempt from taxation. The reason for this exemption is found in the encouragement which the government is willing to extend to the inculcation of good morals and education among its citizens.

All property belonging exclusively to the United States, the State, or to any county, city, township, or school district, is exempt from taxation. The State does not tax the property of the United States because prohibited by law, for the reason that to the extent that it should do so it would cripple the general government

and diminish its resources; and the United States on the other hand does not impose any burdens of taxation upon the State for similar reasons.

So humane is the law of our American government, and so tender and solicitous is it for the preservation of the homes of its humblest citizens, that in most of the States the household goods, wearing apparel, family library and school books of every family, not exceeding in amount one or two hundred dollars, is exempt from taxation. This enables the poor man, to the extent of the exemption, to be free from taxes, so that in no event shall the household goods of his family, or the school books of his children, or the family library, be taken from him. It is considered more important to the government to have the poor man protected in his household necessities than to require him to assist in bearing the burdens of government.

All buildings, with the furniture and books therein contained, and all moneys and credits, belonging exclusively to universities, colleges, academies, or to literary, scientific, benevolent, or charitable institutions, are usually exempt from taxation.

With the exception of the property exempt from taxation as above stated, all property is required to bear its just proportion of the expenses of the government.

In every county, in each year, all of the taxable property is listed and assessed for taxation. This is usually done by a township officer known as the township assessor. In some States there is a county assessor. The assessor calls upon every citizen in his township and requires him to make a list of all the real and personal property owned by him, and also makes an appraisement and valuation of the property, which in

theory is the actual value of the property in money at the time the assessment is made. In actual practice, the property of the citizen is put down on the assessment roll at much less than its true value, sometimes at not more than one-third or one-half of the real value of the property. The result of this undervaluation is to make the percentage of the taxes higher than would be necessary in order to raise the requisite amount of tax if the property were assessed at its full value. Nothing is gained, therefore, by the undervaluation of property for taxation.

The valuation and assessment of the property of each taxpayer are usually made in the spring of each year. The taxes are usually levied in the summer, except the State taxes, which must be voted when the legislature is in session; and the collection of the tax usually takes place in the fall or winter, after the crops for the year have been harvested. After the assessors have completed their work of listing and assessing the property, the lists are returned by them to the office of the county clerk. It is his duty to compile the lists from all the townships and write them out in a book provided for the purpose. This book is called the tax roll of the county. The tax roll when completed consists of a description of every tract of land in the county, and every town lot, with the valuation of each, and the name of every taxpayer in the county with the amount of personal property owned by him set opposite his name.

After the taxes have been voted and the percentage thereof determined, the county clerk carries out on the tax roll the amount of the taxes which every citizen is required to pay, separately stating the amount required to be paid by him for the State taxes, the county taxes,

the city taxes, the township taxes, the school district taxes, with an aggregate of the whole.

The tax rolls when completed are delivered to the county treasurer, and it is his duty to collect the taxes as they have been carried out on the tax roll. In some of the States there are as many tax rolls as there are townships in the county, and the collection of the taxes in each township is made by the township treasurer, and afterward transmitted by him to the county treasurer.

In collecting the taxes, the county treasurer does not go out and call upon the citizens for the taxes due from each, but the citizens are expected to go to the office of the county treasurer at the court-house, and pay their taxes to him. Upon payment of the taxes, the county treasurer gives to the citizen a receipt showing the amount of taxes paid, and the property upon which paid. The citizen having now paid his taxes, and contributed his share to the expenses of the government, his property is free for another year, when he must again pay taxes.

In case the citizen refuses or neglects to pay his taxes, his property is seized by the sheriff of the county, and enough of it is sold at public auction to pay the taxes.

The taxes due upon each particular tract of land or town lot becomes a specific lien upon that particular parcel or tract of land. If the taxes are not paid upon it, that particular tract or parcel is sold by itself for the payment of the taxes upon it.

As to the personal property, all that a taxpayer owns is put upon the tax roll in the aggregate, and if it is not paid, a general tax warrant is issued by the county

treasurer to the sheriff, commanding him to seize any of the personal property of the taxpayer for the payment of the taxes upon all of his personal property.

The law recognizes that the failure of the citizen to pay his taxes at the time they fall due may be the result of inability or misfortune, and not caused by wilfulness or a refusal on his part to pay the taxes in order to obstruct the government. It is, therefore, provided by law that the sale of property of the citizen for delinquent taxes shall not take place until after the lapse of several months after the proper date of payment. Even after his real estate is sold, the taxpayer is allowed two, and in some States three, years after the land has been sold within which he may redeem it from the sale by paying to the county treasurer the delinquent taxes, the costs and expense of advertising and selling his land for taxes, and interest on the money for which it was sold.

At the expiration of this period of redemption, if the taxpayer has not redeemed his land, a tax deed is issued to the purchaser at the tax sale, and the owner loses his land.

After the taxes have been collected, the county treasurer distributes the money to the various funds in the treasury to which it belongs, and pays it out to the proper officers and for the various purposes for which the taxes were levied. The money received for the State taxes he pays to the State treasurer; the money for city taxes, to the city treasurer; the township taxes, to the township; and the school district money, to the treasurer of the school district. These officers disburse the money so received for the proper purposes.

QUESTIONS AND SUGGESTIONS.

Get from your parents, or at the county treasurer's office, a last year's tax receipt, and find out the rate per cent and the different kinds of taxes that were paid by the citizens of your community last year. Suppose a man to have had one thousand dollars' worth of property on the tax roll, how much were his taxes in the aggregate, and how much for the State, county, township, city, and school district separately ?

How does a citizen of your town contribute to the expenses of the United States government, and about how much each year?

CHAPTER XV.

CITIZENSHIP AND NATURALIZATION.

ALL persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States. Children born out of the limits and jurisdiction of the United States, whose fathers were at the time of their birth American citizens, are also declared to be citizens. Any woman married to a citizen, and who might herself be lawfully naturalized, is deemed a citizen.

The foregoing are the provisions of the Act of Congress defining citizenship. They include practically all the men, women, and children in the country, white and black, except unnaturalized aliens and the uncivilized Indians. No registration, no declaration of intention to become a citizen, no oath of allegiance, nor formality of any kind, is necessary to invest the native-born American with citizenship. It is his great birthright. The American flag is his protection, at home and abroad, from the cradle to the grave.

The right of expatriation is as fully recognized by this government as the right of citizenship. No man is required to remain a citizen against his will. He may leave the country and renounce his citizenship, and attach himself to the government of any foreign king or potentate at his pleasure. He may go to foreign lands and retain his American citizenship, and our government will protect him while there.

When he goes, the government will issue to him a passport showing that he is a citizen of the United States and entitled to all the rights and privileges accorded to an American citizen by the government of the country to which he may go. The passport is his authority to travel abroad, and to pass the frontiers of the foreign country which he desires to enter. The Secretary of State at Washington is the only officer in the United States authorized to issue passports. Any citizen who wants to go to any foreign country upon lawful business or pleasure is entitled to make application to the Secretary of State for a passport, and is not likely to be refused. Passports when issued are good for two years. If the citizen desires to stay away longer than two years, he must apply for and obtain a new passport. The application in such cases may be made to the American diplomatic representative in the foreign country where the citizen is then staying.

In order to obtain a passport, the usual method is first to write to the Secretary of State and request a blank form of application. This will come by return mail. The citizen then fills out the application, which is in the form of an affidavit and is a request for a passport, stating his name, age, place of birth, residence, and a brief description of his person by giving his height in feet and inches, color of hair, complexion, etc. The application must be signed by the applicant and be sworn to by him before a notary public, or other officer authorized to administer oaths, and sent to the Secretary of State's office with one dollar, which is the lawful fee for issuing the passport. The money must be sent in currency or by postal money order. The application must state that the citizen desires to go abroad for a tem-

porary sojourn only, and expects to return to the United States and resume the obligations of citizenship.

Naturalization. — Our government and our country have proved very attractive to people living elsewhere in the world. A constant stream of immigration has been pouring in upon us from England, Ireland, Scotland, Sweden, Norway, Italy, France, Hungary, Germany, and elsewhere, averaging now from 300,000 to 500,000 a year. From the establishment of the government to 1820, no accurate count was kept of the number of foreigners who came to this country. The number, however, is estimated at 250,000. From the year 1820 to 1899, the immigration to the United States from all other countries amounted to 18,316,538. The largest number that came in any one year was 788,992, in 1882. In the year 1899 the number was 311,715. From 1881 to 1890, we received 1,452,952 immigrants from Germany, and 1,466,426 from Great Britain. For the year ending June 30, 1899, we received 98,730 Italians, 28,466 Poles, and 15,838 Slovacks, with less than the usual number from Great Britain and Germany. The immigration for 1900 was 448,572.

A few years ago the Chinese began coming in such large numbers and exerted so deleterious an influence upon our labor market, that Congress passed a Chinese Exclusion Act. Those here were permitted to stay, but further immigration from China was prohibited.

The eighteen and a half millions of people from foreign countries that have come here have, with few exceptions, voluntarily renounced their allegiance to the governments of their native lands, and have become American citizens under the naturalization laws of our country.

These laws require that the alien who desires to become a citizen shall have resided in this country at least five years before he can be naturalized and admitted to citizenship; and he must have declared his intention to become a citizen at least two years before making his application for naturalization; and during the five years "he must have behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same." Upon being admitted to citizenship he must take an oath that he absolutely and entirely abjures all allegiance and fidelity to every foreign prince, potentate, state and sovereignty, and particularly to the prince, potentate, or sovereign, naming him, of whom he was before a subject. His declaration must be made before a United States court, or a State court having a seal and being a court of record. Having done this, he is furnished with a certificate under the seal of the court showing that his declaration of intention has been made. Obtaining this certificate is called taking out his "first papers." When the time arrives for completing the naturalization, the applicant must appear in open court with at least two witnesses who are acquainted with him, and make proof to the satisfaction of the court of the existence of facts entitling him to be naturalized, and take the prescribed oath, as above stated. The court then makes an order declaring him a citizen; and a certified copy thereof is issued to him.

Once naturalized, the foreigner is no longer an alien. He is now entitled to all the rights and subject to all the obligations of an American-born citizen. This is true in this country and abroad, it being expressly provided by Act of Congress that all naturalized citizens of the

United States while in foreign countries shall receive the same protection of person and property which is accorded to native-born citizens.

The children of persons duly naturalized, being under the age of twenty-one years at the time of the naturalization of their parents, are, if dwelling in the United States, considered as citizens.

When any alien, who previously declared his intention to become a citizen, dies before being actually naturalized, the widow and minor children of such alien are considered as citizens, and are entitled to all rights and privileges as such upon taking the prescribed oath of allegiance to the United States.

Any citizen of the United States is a citizen of the State in which he resides by virtue of the XIV Amendment to the Constitution of the United States. He may change his citizenship from one State to another by simply changing his residence to the State of which he desires to become a citizen.

United States citizenship does not of itself give the right of suffrage. Each State determines the right to vote by its own constitution and laws, subject, however, to the restriction of the XV Amendment to the Constitution which forbids any State to abridge or deny the right to vote on account of race, color, or previous condition of servitude. By the laws of all the States, however, native-born and naturalized citizens of the United States residing in the States are entitled to vote upon equal terms, under such regulations as are prescribed by the election laws of the States. In some of the States, aliens who have declared their intention to become citizens are allowed to vote before they are fully naturalized. This is a somewhat questionable liberality on the

part of those States. Where such laws prevail, and a six months' residence in the States is the qualification of a voter, it would be possible for an immigrant to leave the interior of Spain, Bohemia, or any other country, on March 1 of any year, and emigrate to this country, and get to and become a resident of any such State, and go before the proper court and take out his first naturalization papers, as early as April 1 of the same year, and by election day in November be a lawful voter. If this had been done in 1900, this ignorant peasant, still an alien, could have participated in the election of President of the United States. If the election had been very close, his vote might have determined the result.

One of the obligations of citizenship is army service, when necessary for the defence of the country, or to sustain the authority of the United States at home and abroad, and to uphold its flag. Such service is obtained in this country by the voluntary enlistment in the army and navy of a sufficient number of citizens. These must be able-bodied and effective men between the ages of sixteen and thirty-five years if candidates for the regular service. The age limitation does not, however, "apply to soldiers reënlisting." The law with reference to the militia says, "Every able-bodied male citizen of the respective States, resident therein, who is of the age of eighteen years and under the age of forty-five years, shall be enrolled in the militia." All other citizens are exempt from such service. No person under the age of twenty-one years can be enlisted in the army without the consent of his parents or guardians. The government has authority to require army service by draft, or forcible enlistment, if at any time the voluntary enlistments should be less than the needs of the country demand.

PART II.

THE CONSTITUTION OF THE UNITED STATES.

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CHAPTER I.

THE ARTICLES OF CONFEDERATION.

A REFERENCE to your American histories will give you sketches of the different kinds of governments existing in the colonies preceding the Revolution and of their relation to Great Britain as the sovereign power. From them you will learn in detail the history of the friction between the colonies and the mother country and the estrangement of the former, resulting finally in their union for a redress of grievances.

A careful study of the negotiations for relief from burdensome taxation and from the oppressive administration of the laws imposed by the British Parliament, together with the formal statement of their wrongs as specified in that immortal document, the Declaration of Independence, will give you an excellent preparation for an understanding of the genius and scope of the Constitution of the United States.

The transplanting of the spirit of English liberty beyond the sea had much the same effect upon it as the transplanting of fruit trees. It had given it a larger life and a more vigorous growth, higher conceptions and sturdier courage.

The appeals of the United Colonies were given little more respect at the hands of King George and Parliament than had been given those of the individual colonies; but the acquaintance with each other which that union brought to the colonies revealed more clearly to

them how nearly alike were their grievances, how common were their interests, how great were their united resources. The war which followed demonstrated at once their weakness as individual colonies and their strength when united.

The bonds of a consuming common purpose, the attainment of freedom, held the colonies together through the long dark years of the struggle for independence even with such a loose and poorly constructed constitution as the Articles of Confederation.

The interests of the colonies and the direction of the war against Great Britain were at first intrusted to the Continental Congress composed of representatives of the various colonies, but after three years' experience the necessity for formal plans of union became so apparent that Congress adopted the Articles of Confederation in the autumn of 1777 and sent them to the various States for ratification.

The term "States" is now used, for ten of the colonies had adopted written constitutions and assumed the dignity and the form of government of independent States. This was an additional reason for a written agreement setting forth the exact character of the federation, which was expressly declared to be a "firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever."

It was further declared in Article XIII that "every State shall abide by the determinations of the United States in Congress assembled, on all questions which

by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterward confirmed by the legislature of every State."

Though the Articles of Confederation were not ratified by all of the States until about four years later, Congress was governed by them in the administration of the affairs of the general government. A brief review of their main provisions will show you how jealously the States guarded their individual rights, and how effectively they restricted the powers of the general government. Their experience with England and their fear of each other, particularly on the part of the smaller States, dominated the framers of the Articles to such an extent that even in the midst of common danger it was evident to many people that they would soon prove little more than a rope of sand.

Their fatal defect was the absence of any authority to enforce the laws enacted by Congress. The confusion arising during the war from the lack of such power continued to increase in the years following the treaty of peace.

The fact should here be noted that there was no executive head to the United States government previous to the year 1789. Neither were there any United States courts except for the trial of piracies and felonies committed on the high seas and for adjudicating prizes for captures on the same. The national executive and judicial functions in a very limited way were lodged in Congress. The Articles empowered that body to appoint

"A Committee of the States," consisting of one delegate from each State, "to sit in the recess of Congress" with authority "to execute such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall from time to time think expedient to vest with them." To add to the growing confusion, the States levied customs duties on goods imported from other States, even going so far, in some cases, as to refuse to admit certain classes of goods from other States to their markets. Local riots, quarrels about boundaries, threats of secession, rumors of foreign interference, the debasement of the currency, the general prostration of business, and the accompanying agitation of the unemployed and the vicious, at last aroused the country to a consciousness of the need for an immediate and radical change in the form of the general government.

In January, 1786, commissioners from five States met in response to a general call from the legislature of Virginia for the purpose of establishing a uniform system of trade relations among the States; but public sentiment had become so strong in favor of a general revision of the Articles of Confederation that the convention unanimously adopted a resolution proposed by Alexander Hamilton, calling for a general convention of all the States for that purpose. In spite of the alarming condition of affairs, it was not until February 21, 1787, that Congress finally adopted a resolution calling for a general convention for the "sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures, such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the

Federal Constitution adequate to the exigencies of government and the preservation of the Union."

The convention assembled on May 25, 1787, all of the States having elected delegates except Rhode Island, and it unanimously elected George Washington President. "It was one of the most remarkably deliberative bodies known to history." Under the leadership of Hamilton and Madison, the idea of a revision of the Articles of Confederation was soon abandoned, and the convention went seriously to work to frame a new constitution. After less than a week's deliberation, a resolution was adopted declaring that "a national government ought to be established, consisting of a supreme legislative, judiciary, and executive." On September 15, after four months of earnest conference and debate, the new Constitution, embodying almost every feature of a plan proposed by Hamilton as early as 1780, was unanimously adopted, being engrossed and signed on the second day following. Time has shown it to be the wisest public document ever formulated for the government of a nation. The more familiar you become with its provisions, the more you will love and reverence it as well as the great spirits who framed it.

Though the convention had labored so earnestly and so patriotically to reconcile conflicting interests, and though generous concessions had been made by all of the States, the new Constitution aroused violent opposition in many quarters, and it was only through the most powerful appeals on the platform and in the public press that its ratification was finally carried. The history of that memorable campaign for "the establishment of a more perfect Union" will ever prove thrillingly interesting to students of constitutional law.

as well as to lovers of American institutions. The Articles of Confederation had provided, as already quoted, that no alteration at any time should be made in them unless "confirmed by the legislature of every State." So desperate had become the general situation, however, that Article VII of the new Constitution provided that the ratification of nine States should be "sufficient for the establishment of this Constitution between the States so ratifying the same." It was ratified by Delaware, December 7, 1787, and by one State after another until New Hampshire's action, June 21, 1788, made up the requisite number of States. North Carolina did not approve it until November 21, 1789, and Rhode Island until May 29, 1790.

An interesting constitutional question arises here. What would have been the relation of the States that might have finally refused to ratify the Constitution? What was Congress already planning to do with reference to Rhode Island when that State gave its approval?

On September 13, Congress provided for the election of the executive and legislative officers as directed in the Constitution, fixing March 4, 1789, as the day when the officers should assume their duties. Consult your histories for information as to the reason for delaying the inauguration of the new government until April 30.

CHAPTER II.

THE ORDINANCE OF 1787, ETC.

BEFORE entering upon the analysis of the new Constitution, it will be well for us to note the provisions made for the government of the territory lying west of the Alleghany mountain system, and of the western boundary of Pennsylvania. Attracted by the pleasant climate and the fertile valleys across the mountains, immigrants from nearly all the States flocked to that region, settling along the borders of the beautiful streams and entering at once upon the cultivation of the soil and the building of their homes. They naturally brought with them the customs of the States from which they came, and in many cases adopted for their community governments the laws of the same.

Any good American history will tell you that much confusion arose concerning the boundary lines of the colonies, particularly concerning the western boundaries of Massachusetts, Connecticut, New York, and the Southern States in general. The history of the attempts to interpret the vague expressions and conflicting claims in the various charters granted to the colonies, together with the efforts at securing concessions to each other and to the national government, fills a large volume in itself. After many attempts and much bickering, a plan was finally agreed upon and adopted by Congress in 1783, which was afterward approved by the States

interested. By it, the territory lying northwest of the Ohio River and east of the Mississippi became the property of the United States, and became known in history as the Northwest Territory.

In the Land Ordinance of 1785 Congress provided for a general survey of the lands embraced in the new territory in accordance with plans devised by Thomas Hutchins, the first geographer of the United States. This plan universally adopted in government survey is explained on page 95. No land could be sold or deeded until it had been surveyed and platted, thus avoiding the conflicts of claims and the consequent endless litigations so notorious in the older States and in the Southwest Territory.

It was not until July 13, 1787, that Congress passed the formal act providing for the government of this great territory. No provision had been made in the Articles of Confederation for the government of additional territory, and yet Congress rose to the solution of this great problem with a wisdom and a magnanimity that has called forth the admiration of our most renowned publicists as well as of the world's greatest statesmen. It was a fitting prelude to the great Constitution already taking form in the constitutional convention then sitting in Philadelphia. B. A. Hinsdale says that it could not have been agreed upon but "for the blessed influences of peace and wisdom that brooded over America in that year." He quotes the words of Bancroft: "For a time wisdom and peace and justice dwelt among men, and the great Ordinance which could alone give continuance to the Union came in serenity and stillness. Every man that had a share in it seemed to be led by an invisible hand to do just

what was wanted of him; all that was wrongfully undertaken fell to the ground to wither by the wayside; whatever was needed for the happy completion of the mighty work arrived opportunely and just at the right moment moved into its place."

The Ordinance created a territorial government which became the general model for the government of the various territories since carved out of the national domain. Its principal provisions were for, —

The distribution of the property of persons dying intestate, and for carrying out the devises of wills left by those dying testate;

The appointment of a governor, a secretary, and three judges by Congress for the temporary government of the territory under the common law, and such laws of the States originally claiming the several parts of the territory as the governor and the judges might agree upon.

As soon as the territory should contain five thousand free male inhabitants, it was authorized to elect members for a house of representatives. This house of representatives was empowered to name ten men to Congress from which number that body should select five to serve as a legislative council. The council and the house of representatives constituted the legislature for the enactment of laws for the territory under the restrictions and powers specified in the Ordinance of 1787. All of the above-named officers were required to be residents and land-owners in the territory during their official terms, a requisite that has not always been demanded for the executive officers of the territories in later years.

The following articles were declared to be "Articles of compact between the original States and the people

and States in said territory and forever remain unalterable." The substance only is given, —

The guaranty of religious freedom.

The benefit of the right of *habeas corpus*, trial by jury, proportionate representation, etc.

The encouragement of religion, morality, and education; good faith toward the Indians, etc.

The subjection of the people to the Constitution and laws of the United States, and the retention of the property rights of the national government in the lands embraced within the limits of the territory.

Provision for the formation of not less than three nor more than five States out of the territory.

The prohibition of slavery and involuntary servitude forever in said territory.

The territory south of the river Ohio, popularly designated as the Southwest Territory, was organized on May 26, 1790. Its general provisions were the same as those of the Ordinance of 1787, with the exception that it respected the clause of the cession act of April 2, providing that the laws of North Carolina should be in force in the Southwest Territory until repealed or altered by the legislative authority of the new territory, thus practically establishing slavery there and insuring its recognition by the new States of Kentucky and Tennessee two and six years later.

The Land Ordinance of 1785, and not the Ordinance of 1787 as frequently stated, set apart Section 16 in every township for the support of the public schools. A clear understanding of the movement toward the adoption of the Constitution and its first ten amendments requires a knowledge of the history of the cession acts of 1783 and 1790, the Land Act of 1785, the *Ordinance of 1787*, and the Act of 1790.

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CHAPTER III.

THE CONSTITUTION.

It is important that every citizen distinguish clearly between the constitution and the statute law.

A constitution is the body of rules and maxims in accordance with which the officers intrusted with the exercise of the supreme powers of the State are guided. It fixes and determines the general limits of the powers which each great department of government may exercise, and provides penalties for their violation or abuse. It is usually called the organic law, because it is the body of laws by which the State is organized and its government set in motion. It is sometimes called a compact or covenant because it is an agreement between States or by a people to form a government, and sets forth in detail the way in which the powers of that government shall be exercised. A constitution also provides for the protection of the rights reserved to the individual States and to the people as the powers creating that instrument. It is therefore the *supreme law* of the land, and all other laws which the legislative body may make must be in accord with it ; otherwise the judicial department may declare them null and void.

It further differs from the statute laws in that they are the laws made by the legislative body created by the constitution. Statute laws provide the details for carrying out the general ideas embodied in the constitution. They may be enacted, altered, or repealed by a

majority vote of the legislative body, and are thus easily changed. A change or amendment to the constitution, on the contrary, usually requires a more formal procedure. In this country a two-thirds vote of the legislative body or a majority vote of a convention called to propose amendments initiates the process, and then the proposed amendment must receive the approval of three-fourths of the States. As a consequence, constitutional changes are not made until some radical change in the views of the people generally demand them in order to insure their permanency and to enable the legislature to pass statute laws, which otherwise might be in conflict with or outside the powers already granted by the constitution. For illustration, see the amendment to our own Constitution abolishing slavery, together with the clause empowering Congress to enforce its provision by appropriate legislation.

There ought always to be grave reasons for any change in the constitution of a State. It contains the stable elements which are supposed to insure the perpetuity of the institutions inspiring the formation of the government, and should not be disturbed for light reasons. So jealous are our people of their National Constitution that but four amendments have been adopted in over one hundred years, showing both the reverence which the people have for it and their hesitancy to change the organic law of the land. It often happens that under the immediate influence of business depression, sectional prejudice, prospective class or party vantage, zeal for a great system of internal improvements or for the extension of commerce, or for some other cause, the people are induced to elect a State or a national legislature favorable to radical legislation which it is discovered

the Constitution will not permit. The mere fact that the constitutional barrier is in the way often causes the party in power to change its policy. If, however, it appeals to the people for a legislative body strong enough to amend the Constitution, it often happens that in the intervening time the causes prompting the change disappear, or that the time given for deliberation changes the minds of a sufficient number to defeat the proposed amendment and even to elect a legislature that will enact laws of a directly opposite character. This disposition of the people to change their views frequently with reference to questions of public policy again illustrates the need for a body of laws sufficiently stable to insure the people against the dangers arising from periodic changes in public sentiment. Thus wisely does a constitution perpetuate the form of government and give it a standing among the nations of the earth.

In some senses the constitution becomes the school-master of the people, for it formulates their ideals of government and begets a respect for the institutions which are thus safeguarded by their countrymen. It is therefore worthy your most careful study. Your privileges and responsibilities as a citizen of this great republic demand that you familiarize yourself with its provisions and its spirit so that you may wisely and helpfully perform your part, however humble it may be, in the administration of the affairs of your government. It is a model of terseness, unity, and clearness, the final draft having been made by a man of elegant scholarship and of rare ability as a writer, Gouverneur Morris.

We are going to ask you to read thoughtfully the enacting clause of the Constitution :—

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Note the various reasons for ordaining and establishing the Constitution, and particularly the declaration that it is done by *the people* and not by the *States*, as in the old Articles of Confederation. This government then is really a union of the *people*, though still retaining the name adopted when the union of the States was consummated. With the adoption of the Constitution the idea of a federation of States was displaced by that of the nation, of which the people became the constituent parts instead of the States. The retention of the State governments and the recognition of many rights guaranteed them in the Articles of Confederation in no way destroy the force of the doctrine that the Union and the Constitution are the creations of the people as the sovereign power, — of *the people of the United States* and not of the people of the several States.

NOTE 1. — Discuss the differences with your classmates and with your teacher and find out what great legal battles as well as what great war took place because of differences of opinion concerning the nature of the Union and the meaning of related parts of the Constitution. Consult the books mentioned in the last chapter, biographies of American statesmen, and your United States histories.

NOTE 2. — The brief analysis of the Constitution following will give you a logical view of the different departments of the government and their several functions. Occasionally the statutory provisions are included. For the sake of clearness, a few constitutional provisions are repeated under different heads.

CHAPTER IV.

THE LEGISLATIVE DEPARTMENT.

You will remember that within a week after convening, the constitutional convention adopted a resolution declaring that the national government ought to consist of three departments, — "legislative, executive, and judiciary." Strange to say this declaration is nowhere formally embodied in the Constitution itself, though its provisions are in accord with it.

There are but seven articles, or general divisions, in the original Constitution. The first three treat of the three great departments just mentioned; the fourth, of the rights of the States and of the citizens, the admittance of new States, etc.; the fifth, of methods of amending the Constitution; the sixth, of national debts already incurred, of the supreme law, and of oaths; the seventh, of the method of ratification. Each of the fifteen amendments is called an article, the first amendment being numbered I. The first four articles of the original Constitution are still further divided into parts called sections. Several of the articles as well as several of the sections are, for convenience, divided into numbered paragraphs or clauses. These subdivisions assist greatly in finding each subject treated. The figures used in this analysis refer to the article, section, and clause respectively.

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." *Article 1, Section 1.*

Your attention is again called to the careful wording of the Constitution. Note that this first article specifically says "all legislative powers herein granted," implying at once that there are certain legislative powers outside of those specified that Congress might attempt to exercise. Later in this article, those powers are definitely named for the guidance of Congress and of the courts.

The provision for two houses of Congress was in accordance with the plan by which the English Parliament and other time-honored legislative bodies were organized, though the method adopted for selecting the membership was new. The provision insures greater deliberation in law-making and tends to protect the people against the evil effects of hasty legislation. Bills that have passed the scrutiny of the two houses would naturally be less defective than if considered by one house only. It often happens, however, that the differences between the houses are so great that a committee of conference is appointed by each house to try to adjust them, and even then they sometimes continue to disagree, and the bill fails to become a law. The wisdom of the plan had already been given a practical demonstration in eleven of the States which had previously adopted constitutions, and hence was popular with many of the delegates to the convention. Since then, every State in the Union has provided for the organization of its legislature in the same way. Many of the larger cities in this country also have two

legislative bodies constituting the city council, usually called the upper and the lower house.

The members of the United States House of Representatives are elected every two years by the legal voters of the respective States entitled by the State constitutions or laws to vote for members of the most numerous branch of the State legislature. I, 2, 1. The total number of members of the House for the first Congress was fixed at sixty-five, the number for each State being specifically designated in Article I, Section 2, Clause 3. The same clause provided that a census of the population should be taken within three years, and that Congress should then by law apportion to the several States the number of representatives to which they should be entitled, the apportionment not to exceed one for every thirty thousand population, but each State to have at least one representative. The same clause provided for a similar census and a reapportionment every ten years. In apportioning representatives Congress is now required to count "the whole number of persons in each State, excluding Indians not taxed." I, 2, 3, and *Amendment XIV*, 2. The amendment also declares that the representation in any State shall be reduced in case it denies the right to vote at State or national elections to any residents, male citizens of the United States over twenty-one years of age, except for participation in rebellion or other crime. I, 2, 3, and *Amendment XIV*, 2.

In accordance with this provision a census was taken in 1790 and has been taken regularly every ten years since. It soon began to embrace a variety of items besides the mere number of people, and now shows the number of foreign born, the ancestry of the native born, the number in the various occupations, the num-

ber of school age, the number of members of each religious denomination, the number of schools and colleges, the number of newspapers, books, and periodicals published, the number of acres under cultivation, the number of cattle, hogs, horses, sheep, etc., the number of the various kinds of factories and the amount of their products, the output of the mines, the number and value of the railroads, and a great variety of similar information valuable for study and instruction in every department of learning and industry. The last census was taken in 1900 and employed an army of forty thousand men and women for gathering statistics from the people. Every home in the land was visited. Ask your parents who called at your home and what questions he asked? Where did the enumerators get the other information needed for the national census?

All of these reports from the various parts of the country are sent to the Director of the Census at Washington, D.C., who with his three thousand assistants classifies and summarizes them. The sums total of the population of the various counties, cities, and States are determined first so that Congress may proceed with the new apportionment as the new representation by law shall take effect on March 4 of the third year following the census. The summarizing and printing of the statistics on the different subjects occupies several years, and fills many ponderous volumes. These volumes as well as the publications of the various departments of the government may be secured for your school free of charge through your representative in Congress or your United States senator.

The bill apportioning the representatives is usi

introduced by a committee appointed for that purpose, though any member may introduce one. Though against a sound public policy, great care is sometimes taken by the dominant party to agree in committee conferences and party caucuses upon a sum total of membership for the House that shall give such a proportionate population for each representative that the quotients found in dividing the population of each State to fix its quota shall be favorable to the States in which the party is in power. The problem is a difficult one in mathematics as well as in politics, and as the States having the largest remainder of population in order after the division has been made are entitled to the representatives still unassigned, a difference of one or two members in the sum total may complicate it greatly. Sectional and other interests often demand recognition in the preparation of the bill, adding greatly to the difficulty in the way of securing a just and equitable apportionment. This bill passes through the same processes as all other bills in order to become a law.

The total membership agreed upon under the census of 1900 is 386. Dividing the total population of the United States by that number gives 197,656, as the ratio of population for each member. If a State is admitted after the apportionment, the total number of representatives is increased by the number allotted to it in proportion to its population.

Each State legislature in turn apportions the representation to which it is entitled by providing for its election by the State as a whole, or by districts, known as congressional districts. If the former method is adopted, the representative is called the "congressman-at-large." If the latter, the districts are numbered and

he is known as the congressman from the — district. In dividing the State into congressional districts, the party controlling the legislature sometimes strives to gain party advantage and often forms very curiously shaped districts, as a study of the map of the congressional districts of your own State may show. This process is called "gerrymandering," and usually arouses the most bitter criticism from the opposing party. It is possible to gerrymander a State in which a fair apportionment would give a majority of the congressional delegation to one party, so it could not elect a single representative without a great change in public sentiment. When carried too far it reacts to the disadvantage of the party doing it, for the people generally love fair play. Occasionally a legislature fails to agree upon a new apportionment after its quota has been assigned, and the State elects the additional member or members at large, thus having the State as a whole, as well as the districts represented in the House. Kansas has had one congressman-at-large since 1893, having failed to pass a general apportionment law since the census of 1890. Each organized territory is by law entitled to one delegate in the House, but to no representation in the Senate. He is entitled to speak, but not to vote.

Qualification of Members of the House of Representatives. — A representative must be at least twenty-five years of age, a citizen of the United States seven years, and an inhabitant of the State in which chosen. I, 2, 2.

Election of Members. — The times, places, and manner of holding elections for representatives are prescribed in each State by the legislature, though Congress may make or alter such regulations. I, 4, 1. In accord-

ance with this last clause, Congress has by law designed the first Tuesday after the first Monday in November in each even year as the time for the election of representatives.

A Vacancy is filled by a new election called by the governor of the State in which it occurs. I, 2, 4.

The House of Representatives is intended to represent the people directly, and the short term limit enables them to change its membership every two years if they so desire.

The Exclusive Powers of the House are:—

To elect its own officers. I, 2, 5.

To originate and prosecute all impeachments. I, 2, 5.

To originate all bills for raising revenue. I, 7, 1.

To elect the President of the United States when the electors fail. *Amendment XII.*

The Senate:—

“The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six years; each senator shall have one vote.” I, 3, 1.

The small States were unwilling to enter the “more perfect Union” unless their rights could be protected in some way, and the larger States were unwilling to concede equal power to the smaller States. The delegates from Connecticut proposed, as a compromise, equal representation of the States in the Senate and representation in proportion to the population in the House, as just explained. This proposition was happily acceptable to all and solved the greatest difficulty with which the convention dealt. To insure each State its right of *representation* in the Senate, the constitution provides

that no State can be deprived of its equal suffrage in the Senate without its consent. In the very nature of things this consent will never be given. V.

Qualifications of Senators. — A senator must be at least thirty years of age, nine years a citizen of the United States, and an inhabitant of the State from which elected.

When and how Elected. — The senators are regularly chosen by the legislature of each State at the regular session next preceding the expiration of a senatorial term. The two houses meet separately at noon on the second Tuesday after their organization has been completed and vote *viva voce* for a United States senator. They meet in joint convention at the same hour on the following day, and the results of the votes on the previous day are announced. If any candidate has received a majority of the votes in each house, he is declared elected. If no one has received such majorities, the members in joint session vote their preferences. If any candidate has a majority of all the votes cast, he is declared elected; if not, the two houses meet in joint convention from day to day and ballot until some candidate obtains the necessary majority. It sometimes happens that no candidate receives a majority at any time before the final adjournment of the legislature, and the State is then by its own act deprived of half of its representation in the Senate until the legislature meets again in regular session, or at the call of the governor. In such cases the governor of the State has no power to appoint a senator. Why?

When the first Senate met for organization in 1789, in accordance with I, §, 2, the senators were divided by lot into three classes, — one class vacating their positions in two years, one in four, and one in six, so that one-

third of the senators would be chosen every two years, thus making the Senate a permanent body and giving the nation the benefit of an experienced body of legislators. As each new State has been admitted, its new senators have been assigned to short and long terms in such a way to keep the three classes as nearly equal as possible. It thus happens that the first senators elected from a new State often serve but two and four years respectively. As the members of the House represent the people, so the senators are held to represent the State. For many years a persistent effort has been made to amend the Constitution so as to provide for the election of the senators by the people of the several States, but though the House has voted almost unanimously for it, the senate has buried the amendment in a committee. What does that mean? What arguments do you see for and against the proposed change? I, 3, 1 and 2.

Vacancies.—All vacancies in the Senate occurring during a session of the legislature are at once filled by that body; if occurring at any other time, the governor appoints a senator to act until the legislature at its next meeting fills the vacancy by election. In case the legislature fails to elect, the position must remain vacant. I, 3, 2.

President of the Senate.—The Vice President of the United States is the presiding officer of the Senate, with no vote except in case of a tie. The Senate chooses a president *pro tempore*, who presides in the absence of the Vice President, voting as senator only. I, 3, 4, and 5.

Exclusive Powers of the Senate:—

To elect its own officers, with the exception of its permanent president. I, 3, 5.

To elect the Vice President of the United States in case the electors fail to elect. *Amendment XII.*

To confirm certain classes of presidential appointments. II, 2, 2.

To ratify treaties. II, 2, 2.

To try all impeachments. I, 3, 6.

An impeachment is a formal accusation brought against a public officer charging him with malfeasance in office, neglect of duty, treason, or some other offence affecting his character and his usefulness in the office to which elected or appointed. Officers directly provided for by the Constitution can be removed in no other way except that the members of either house of Congress may be expelled by a two-thirds vote of that house. I, 5, 2.

When articles of impeachment are presented to the Senate by the House, the former organizes itself into a court to try the case, each senator taking an oath or affirmation. When the President of the United States is being tried, the Chief Justice of the Supreme Court presides. It requires a two-thirds vote of the senators present to convict. I, 3, 6.

The judgment in cases of impeachment is fixed by the Senate as a court, but shall

“not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.” I, 3, 7.

Though there have been seven impeachments by the House, including that of President Andrew Johnson, there have been but two convictions, so difficult is it to get a two-thirds vote against an officer whose impeach-

ment may assume real or apparent partisan coloring. What vote is required to bring articles of impeachment before the Senate?

Both houses of Congress have exercised the power to expel a member for notorious offences. Recently B. H. Roberts, elected to the House from Utah, was refused admittance for polygamy, though many members thought he should have been admitted and then expelled. What advantage would admittance have given him?

A majority constitutes a quorum in each house. I, 5, 1.

The Common Powers and Duties of Each House are:—

To judge of the elections, returns, and qualifications of its own members. I, 5, 1.

To determine its rules of proceedings, punish its members for disorderly conduct, and by a two-thirds vote expel a member. I, 5, 2.

To keep a journal of its proceedings and publish the same, excepting such part as may in its judgment require secrecy. I, 5, 3. When would secrecy be required?

To record the yeas and nays if one-fifth of the members present demand it. Why should they demand it?

To adjourn, not to exceed three days, nor to any other place, without the consent of the other house.

To originate bills or resolutions on any subject except that the House only can originate bills for raising revenue. I, 5.

Rights of Members of Congress.—Except for treason, felony, and breach of the peace, the members of Congress shall be free from arrest “during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or any debate in either house, they shall not be questioned in any *other in place.*” I, 6, 1.

Prohibitions on Members.—“No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time, and no person holding any office under the United States shall be a member of either House during his continuance in office.” I, 6, 2.

“No Senator or Representative shall be appointed a presidential elector.” II, 1, 2.

Compensation of Members. — As provided by the Constitution Congress fixes the salaries of the senators and representatives which are paid out of the treasury of the United States. The salary is five thousand dollars per year and mileage of twenty cents per mile each way from place of residence. Each member is allowed a private secretary, and each chairman of a committee a clerk, their salaries being paid out of the public treasury. An allowance of one hundred and twenty-five dollars is made each year for stationery, etc. I, 6, 1.

How Laws are made. — You are referred to Chapter VII, Part 1, for a brief description of the law-making process in a State legislature. The provision governing Congress is as follows: “Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large in their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other

house, by which it shall likewise be reconsidered ; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law."

Every order, resolution, or vote requiring concurrence of both houses must pass through a similar process before becoming effective. It will be seen from the foregoing how carefully each bill is considered before it becomes a law. The checks thus thrown upon hasty legislation sometimes keep a bill in one house or the other for many months before its final passage, and even then it may fail because it cannot be amended so as to make it acceptable to a majority of both houses. Sometimes a party measure is rushed through both houses, if the party has a good working majority in each ; but bills generally must bide their time.

The votes of a majority of the members of each house present and voting, if a quorum be present, are required to pass a law. In some States, Kansas, for example, a majority of *all the members elected* is required to pass a law. Which is the better way ?

The Powers of Congress. — As already explained, the Constitution serves as a guide to the three great departments of government in the exercise of their functions, and the powers and limitations of each are

specifically stated. In the numbered paragraphs following, the exact language of the Constitution is given.

The Congress shall have power, —

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post-offices and post-roads;

8. To promote the progress of science and useful arts, by securing for limited times, to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and,

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof. I, 8.

If any State should lay imposts on imports and exports, except what may be necessary to execute inspection laws, Congress has power to approve or disapprove the same. See powers denied to the States, p. 220.

If any State lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay, Congress has power to approve or disapprove. See powers denied to the States, p. 220.

To provide for the appointment of inferior officers by the President alone, by the courts, and by the heads of departments. II, 2, 2.

To fix the salaries of the various officers and employees of the government, and to authorize the heads of departments to determine the wages of inferior officers and employees when not otherwise fixed by law.

To appropriate the public moneys for governmental purposes. Where do you find these last two powers given?

To approve the acceptance of a title, emolument, or office from a foreign power by a public officer. I, 9, 7.

To fix the time for choosing presidential electors and the day on which they shall give their votes. II, 1, 4.

To establish courts inferior to the Supreme Court, fix their limits and jurisdiction, and make such other regulations as may seem wise. III, 1; 2, 2 and 3.

To declare the punishment of treason. III, 3, 2.

To provide for presidential succession in case of removal, death, resignation, or inability of both President and Vice President. II, 1, 6.

To prescribe by general laws methods of proving acts, records, and proceedings of any State in the several States. IV, 1.

To admit new States and approve the union of two

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or more States if the legislatures thereof shall so decree. IV, 3, 1.

To "dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." IV, 3, 2.

The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence. IV, 4.

By a two-thirds vote, to propose amendments to the Constitution. V.

On the application of the legislatures of two-thirds of the States Congress *shall* call a convention to propose amendments. V.

To enforce the provisions of Amendments XIII, XIV, and XV.

Prohibitions on Congress. — It was necessary that the limitations on the power of Congress should also be defined. Though these were specifically fixed in the original Constitution, the discussions during the campaign for its adoption resulted in a practical agreement that the first Congress should propose amendments still further limiting the powers of Congress and of the general government, and affording greater protection to individual and State rights. The first ten amendments have been said to be practically a part of the original Constitution. Why?

Congress was prohibited,

From interfering with the slave trade prior to 1808. This entire clause was abrogated by Amendment XIII. I, 9, 1.

From authorizing the suspension of the writ of *habeas corpus* except when in case of rebellion or invasion the public safety may require. I, 9, 2.

From passing a bill of attainder or an *ex post facto* law. I, 9, 3.

From assessing a capitation or direct tax, except in proportion to the population. I, 9, 4.

From laying taxes or duties on articles exported from any State. I, 9, 5.

From favoring the commerce or vessels of one State above those of another. I, 9, 5.

From drawing money out of the public treasury except in accordance with appropriations made by law. I, 9, 6.

From granting titles of nobility. I, 9, 7.

From assuming or paying any debt or obligation incurred in aid of insurrection or rebellion against the United States or for the loss or emancipation of any slave. *Amendment XIV*, 4.

How Congresses are Designated. — Each Congress is designated by the number of its house in order and is consequently two years in length.

The Congress during the life of the first house was consequently called the First Congress. The Congress beginning the second century under the Constitution was called the Fifty-first Congress. What is the number of the present Congress? Each Congress holds two regular sessions, assembling on the first Monday in December of each year, though extra sessions may be called by the President. The term of office of the members begins March 4, next after election, hence the last session of each Congress ends March 4, and is popularly called the short session. I, 4, 2.

CHAPTER V.

THE EXECUTIVE DEPARTMENT.

LAWS are of little value without efficient executive officers to administer them. It often happens that the people through their legislative bodies enact laws and are surprised that the expected relief or benefit does not follow. This may arise from defects in the law or from the failure of the proper officers to enforce it. Many otherwise wholesome laws have been dead letters on the statute books because of the failure to provide for their proper execution. It is then just as important that men of ability and integrity should fill the various executive and judicial offices as that only such should be elected to the legislature and to Congress.

The highest executive officer of a State or a nation should always be in hearty accord with the institutions and laws of his country, for his high position enables him to shape legislation and to dictate the policy of the nation in internal as well as in international affairs. As commander-in-chief of the army and navy, he always has trained soldiers to do his bidding, and hence should be a man of cool judgment, of unswerving integrity, a broad-minded patriot, and not a narrow-minded partisan.

Since he is clothed with so much power, the necessity for placing constitutional limitations on its exercise is evident. The experience of the colonies under King George, a despotic ruler, and of the States for nearly fifteen years without any executive head whatever, enabled the framers of the Constitution to provide most

wisely for the organization of the executive department of the national government.

You doubtless can see many reasons why the executive power should be vested in one man as the Constitution provides. He is designated as the President of the United States of America, a title more honorable than that of king, or emperor, or czar, because he attains to his high office not by birth or conquest or fortune, but by the voluntary suffrages of a free people.

His term of office is limited to four years. How many times may he be reëlected? II, 1, 1.

The qualifications of a President are: he must be a natural-born citizen, at least thirty-five years of age, and fourteen years a resident within the United States, II, 1, 5.

When Elected. — Congress may determine the time of choosing electors and the day on which they shall cast their votes. It shall be the same in all the States. II, 1, 4. In accordance with this provision, Congress has by law designated the first Tuesday after the first Monday in November, in the years divisible by four, for the choice of electors in the several States, and the second Monday in January as the day when the electors thus chosen shall meet in each State to ballot for President and Vice President.

How Elected. — “Each State shall appoint, in such manner as the legislature may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.” II, 1, 2. “With occasional exceptions, the States have provided for the election of the presidential electors by the voters of the State at large.”

As a preliminary step, the custom has grown up for each of the various political parties to hold a national convention to nominate candidates for President and Vice President. State conventions are also held by each party to nominate candidates for the electors to which the State may be entitled, who will vote for the candidates of that particular party for President and Vice President. On election day the voters cast their ballots directly for these electors, and not for the candidates for President and Vice President. The candidates for electors receiving the largest number of votes in the State, or the districts, as the State law may provide, at the November election, become the presidential electors for that State. On the second Monday in January they meet, usually in the capitals of their respective States, and, if true to their trusts, cast their ballots for the nominees of their party. The electors of the nation as a whole are called the "electoral college."

In voting for President and Vice President, each elector must vote for at least one person who is not an inhabitant of the State in which the elector lives.

The result of the vote in each State is certified in three separate lists, one being sealed and sent to the president of the Senate by mail, another to the same officer by a special messenger selected by the electors; the third copy is deposited with the United States district judge for that district. In case both of the first two lists fail to reach the president of the Senate, he can send for the certified list in the hands of the district judge.

On the second Wednesday in February, in the presence of both houses of Congress, the president of the Senate opens the returns, and the votes are counted. The persons receiving a majority of the votes of all the

electors appointed, for President and Vice President, shall succeed to those offices on the fourth of March following. Does the presiding officer declare who are elected? *Amendment XII, 1.*

In case no candidate receives the votes of a majority of all the electors for President, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. *Amendment XII, 1.*

The President never receives any official notification of his election. He has heard the voice of the people, and on March 4 appears at the Capital to take the oath of office in response to it.

If no person receives a majority vote of all the electors for Vice President, then from the two highest numbers on the list the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

The Salary of the President is fifty thousand dollars per year. In addition to this he has the free occupancy of the presidential mansion, the famous "White House," and has a generous allowance of about twenty thousand dollars per annum for household expenses.

Legislative Powers. — At the opening of each regular session of Congress, the President sends his annual message to it, which includes a *résumé* of the general condition of the Union and the needs of the different departments, with such suggestions concerning legislation as he may deem advisable. He may also send to Congress special messages as occasion demands. II, 3. In this way he exerts a potent influence over legislation, particularly as he is supposed to be the exponent of the principles of the political party in power, and consequently the houses of Congress, if of the same party, will strive to embody his suggestions in law.

His direct and formal power in law-making is found in the provision that no bill can become a law, nor joint order or resolution, except on a question of adjournment, become effective without his approval, except by a two-thirds vote of both houses of Congress over his veto. Though he may retain a bill in his possession until it becomes a law without his signature, it is a tacit approval after all.

The Presidents generally have not often used the veto power, though of late years they have exercised it quite frequently. If the bill is a party measure, a veto usually arouses very bitter feeling among the members of Congress. I, 7, 2, and 3.

Why is the President given the veto power?

Could he veto an amendment to the Constitution proposed by Congress?

The President also has power by and with the consent of the Senate, two-thirds of the members present concurring, to make treaties with foreign powers. While in some senses this is an executive function, and the treaty originates with the executive, it is a legislative action, for the Constitution declares treaties to be *supreme laws* of the land. II, 2, 2; VI, 2.

Executive Powers.—The general executive powers granted to the President are:—

To act as commander-in-chief of the army and navy of the United States, and of the several States when called into the actual service of the United States.

To require opinions in writing of the principal officers in each of the executive departments upon any subject relating to their respective offices.

To grant reprieves and pardons for offences against the United States except in cases of impeachment. II, 2, 1.

To nominate, and by and with the advice and consent of the Senate appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for.

To appoint such inferior officers without the consent of the Senate as Congress may by law provide. II, 2, 2.

To fill vacancies that may happen in any offices during the recess of the Senate, though commissions thus granted expire at the end of the next session of the Senate. II, 2, 3.

To convene either or both houses of Congress on extraordinary occasions.

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To recommend to the consideration of Congress such measures as he shall judge necessary and expedient.

To adjourn Congress, when the houses may disagree as to time of adjournment, to such time as he may think proper.

To give Congress information on the state of the Union.

To receive ambassadors and other public ministers.

To take care that the laws be faithfully executed.

To commission all officers of the United States. II, 3.

The last four are, more specifically speaking, imposed duties.

The duties of the executive department of the government from the very first have been various and laborious. They cover such a wide range and such a multiplicity of details that it would be impossible for one mind to grasp them with sufficient clearness to give them intelligent and efficient direction.

For that reason the First Congress, following the example of older nations, divided the work by providing for the organization of the departments of State, of War, of the Treasury, and of Justice, respectively, on July 27, August 7, September 2 and 24, 1789. The Post Office department was established May 8, 1794; the Navy, April 30, 1798; the Interior, March 3, 1849; Agriculture, February 9, 1889.

The head of the post-office department is called the Postmaster General; of the department of justice, Attorney General; the heads of the other departments are called Secretaries. These officers are appointed by the President, by and with the advice and consent of the Senate, and practically hold their office at his pleasure. They are usually selected by him from the party to which he belongs, and, following the example of Washington, each

President takes great care to nominate only men of such great ability, of such national reputation, and of such recognized fitness for their positions that they will at once give dignity and influence to his administration at home and abroad. Collectively they are called his *Cabinet*, and constitute his confidential advisers. They meet regularly on Tuesdays and Fridays, and more frequently if the public business demands. The President always presides. While each member of the Cabinet manages the affairs of his own department, it frequently happens that cases arise affecting the interests of more than one department, or of the nation as a whole, and require the attention and judgment of the entire Cabinet. Many grave domestic and foreign questions affecting national policy come before the Cabinet from time to time, and though the President may follow his own judgment, the counsels of his great Secretaries are invaluable to him.

All public papers pertaining to the work of a department are drawn up by its Secretary or by some one designated by him, and are generally supposed to express the views of the President and of the Cabinet as a whole, though often they have not even informally been submitted to it for approval. The deliberations of the Cabinet are secret, though the conclusions reached are usually given to the press at once, unless their publicity might be detrimental to the public service.

Each department is managed by a sufficient number of assistant secretaries and commissioners to supervise the details of the different sub-departments or bureaus which Congress provides. In this way its business is thoroughly organized and systematized, enabling it to meet the demands of the government and of the people with economy and despatch. So perfectly organized

are these various divisions and subdivisions of the governmental machinery that errors seldom occur, and the public business is conducted with such satisfaction to the people that complaints are rarely heard. When it is considered that a single one of these departments, the post-office department for instance, employs about two hundred thousand men and women scattered over a vast domain, the efficiency of the system must at once be evident to any one.

The members of the Cabinet receive a salary of eight thousand dollars per year. Each department is provided with ample buildings for the accommodation of its vast business at the National Capital and in the leading cities of the Union. Many of these buildings are models of architectural beauty and convenience.

Space forbids more than a very brief outline of the duties of each department.

The Department of State is recognized as holding the most intimate relationship to the President. Through its secretary he communicates with foreign governments, formulates treaties, and gives instruction to the diplomatic representatives in the great capitals of the world. As these communications and papers often involve questions of the greatest delicacy, it is important that the secretary be skilled in international affairs and experienced in the great art of diplomacy.

He is the custodian of treaties, presidential messages, laws, resolutions, proclamations, and other public documents of a general nature, and publishes the same under the great seal of the United States.

He supervises the diplomatic and consular service in foreign lands, and issues passports. The ministers and ambassadors devote themselves to protecting and fur-

thering the political interests of the nation, while the consuls perform the same functions for the commercial interests of citizens of the United States in foreign lands. Through the good offices of both, friendly relations are maintained and mutual, political, and commercial interests fostered. The material prosperity of a nation is so largely dependent on friendly reciprocal commercial relations that every citizen is more deeply interested in the work of this department than is generally supposed.

The office force of the Secretary of State numbers about one hundred persons, though over twelve hundred are employed in the various foreign consulates, and perhaps half as many more in the diplomatic service.

The War Department. — **The Secretary of War**, the statute says, shall perform such duties as shall from time to time be enjoined or intrusted to him by the President relative to military commissions, the military forces, the warlike stores of the United States, or to other matters respecting military affairs; and he shall conduct the business of the department in such manner as the President may direct.¹

The duties of the department are distributed to ten principal officers, and involve the organization, equipment, inspection, maintenance, and direction of the armies of the United States. In addition, they embrace the location and construction of fortifications, military bridges, pontoons, etc. The officers of the engineering corps are also employed in the location and construction of lighthouses and in surveying harbors and navigable

¹ The student will find the book entitled "This Country of Ours" by Ex-President Benjamin Harrison, exceedingly helpful and interesting, particularly the chapters pertaining to the members of the Cabinet and their duties.

rivers with a view to their improvement in the aid of commerce, and also with a view to their utilization in times of war.

In time of peace the government maintains only an army sufficient to guard important points and to conserve order in sporadic cases of insurrection or violence. The law of 1901 permits the President to increase the regular army to about 100,000 men, though he may reduce it to 58,000. He may call out the militia of the several states as emergencies may demand, but the number of volunteers he may call out is determined by the specific regulation of Congress. The recent war with Spain and in the Philippines required an increase in the army to 283,303 men.

Strict military discipline is essential to effective war service, and hence army tactics are exceedingly exacting in every detail. The government maintains the West Point Military Academy for the training of army officers. The examinations are rigid, and the course fits the graduates for the most responsible and difficult service that may be assigned them.

The Navy Department. — The duties of the Secretary of the Navy are of the same general character as those of the Secretary of War, but pertain, of course, to naval affairs. His duties were originally performed by the war department. Eight bureaus, the heads of which are appointed by the President and confirmed by the Senate, conduct the business of this department. They are as follows: a Bureau of Yards and Docks, of Equipment and Recruiting, of Navigation, of Ordnance, of Construction and Repair, of Steam Engineering, "Supplies and Accounts," and of Medicine and Surgery.

"Warships reënforce diplomatic demands and pro-

tests, and naval orders have a close relationship to diplomatic forecasts. As a consequence, the relations between the Secretaries of State and of the Navy are peculiarly close and confidential."

"There is a hydrographic office in the Navy Department for the preparation and publication of mariners' charts and sailing directions."

The Department of Justice. — Though the Attorney General was made a member of the Cabinet in 1789, the department was not formally organized by Congress until 1870. His duties are, to conduct suits in the Supreme Court in which the United States may be a party, give advice to the President and heads of departments concerning questions of law when requested. In a general way he advises and directs the district attorneys throughout the country.

The Post-office Department. — No other department of the government comes so near to every man's door as this. While directly it may not be regarded as a function of government, its public utility has never for a moment been questioned, and the cheap, safe, and rapid transportation of the mails is one of the priceless blessings the government confers upon the people. The history of its development reads like a fairy tale.

The Postmaster General and his four Assistant Postmasters General, together with the Superintendent of the Money Order System and the Superintendent of Foreign Mails, supervise the entire post-office system, including the transportation of domestic and foreign mail.

Discuss their various duties with your teacher and classmates.

The President appoints, subject to confirmation of the Senate, all postmasters whose salary is one thou-

sand dollars or over, the Postmaster General appointing the others. In actual practice, what men have great influence in the appointment of postmasters, and, in fact, of nearly all appointive officers?

The Treasury Department. — No government can run successfully without money to pay the salaries of its officers and the expenses of its various departments. One of the great functions of government is to maintain a stable currency and the financial integrity of its people. Its ability to do this is largely dependent upon the wisdom with which its own monetary affairs are conducted. Under our present system, the Secretary of the Treasury holds such tremendous power in his hands that under certain conditions he may, by a single wrong step, produce a general financial panic and ruin the business interests of thousands of his countrymen; on the other hand, wise action may quicken confidence, relieve the stringency of the market, and stimulate trade in every hamlet. The Treasury Department is not only the nation's great collecting and disbursing agency, but it has also become the people's great banking institution as well.

In a general way, the duties of the Secretary of the Treasury are:—

To devise plans for raising revenue and put them into execution, when incorporated into law by Congress and approved by the President.

To provide forms and systems of reports for keeping accounts and making returns.

To approve warrants on the treasury in pursuance of appropriations made by law.

To supervise the issuing of all notes, bonds, or other obligations of the government.

To superintend the national banking system, the coinage of money, customs, custom-houses, the inspection of ships, lighthouse and life-saving stations, and the prosecution of the coast and geodetic surveys, and

To exercise such other functions as may relate to the management of the government finances.

He is assisted by a Comptroller, a Treasurer, a Register of the Treasury, a Comptroller of the Currency, six Auditors, a Commissioner of Internal Revenue, a Director of the Mints, and a Supervising Architect, whose duty it is to prepare plans for public buildings and to superintend the erection of the same.

The collections and disbursements of this department amount to nearly half a billion dollars per year.

The Department of the Interior. — In distinction from the Department of State or of Foreign Affairs, this is also often called the Home Department.

The secretary is directly assisted by five commissioners in charge of bureaus whose names suggest their general duties, — Public Lands, Indian Affairs, Pensions, Patents, and Education. The Director of the Census belongs in this department also. Ex-President Harrison says that "no one of the secretaries, except perhaps the Secretary of the Treasury, is so pressed and encumbered with business as the Secretary of the Interior. His work is not single, but diverse and multifarious; and only a strong and versatile man can conduct it successfully."

Department of Agriculture. — The agricultural interests of this country dominate over all the other industrial interests, and with a view to their further development the Department of Agriculture was organized in 1862. It was made a department of the Cabinet

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in 1889, the name of its head officer being changed from *Commissioner* to *Secretary*. No other industry is thus recognized and dignified.

The province of the department is :—

To collect statistics and issue reports on soils, the cultivation of crops, insect pests, diseases of animals, forestry, etc.

To inspect meats and live animals for export.

To conduct the weather bureau service, and publish meteorological data, and

To give such general assistance as may be feasible in increasing the output of the farms and orchards and pastures of the land.

The Vice President.— His qualifications are the same as those for the President, and his duties are to preside over the deliberations of the Senate. He has a casting vote in case of a tie. I, 3, 4. He does not have the usual prerogative of a presiding officer with reference to the appointment of standing committees. They are made up by the senators in party caucuses, the majority party taking a majority of each committee, and they are ~~then formally elected by the Senate.~~

Presidential Succession.— In case of a failure to elect a President before the fourth day of March next following the presidential election, and in case of the death or other constitutional inability of the President, the Vice President becomes the President. *Amendment XI, 1.*

In case of removal, death, resignation, or inability both of the President and Vice President, Congress may provide for filling the vacancy. II, 1, 6. In accordance with this provision, the Statute of 1886 provides that the succession shall be in the following order from among the members of the Cabinet, viz., Secretary of

State, Secretary of the Treasury, Secretary of War, Attorney General, Postmaster General, Secretary of the Navy, and Secretary of the Interior. A successor from the Cabinet, however, would simply be the acting President.

CHAPTER VI.

THE JUDICIAL DEPARTMENT.

THE trinity of governmental powers is completed in the provision for a court whose principal duty shall be to secure that other object set forth in the declaration of purposes in formulating the Constitution, — *to establish justice*. Whether the offences charged be committed against his fellow-men or against his government, the reputed offender is entitled to a fair and impartial trial that no injustice may be done him, that the majesty of the law may be vindicated and society protected.

A court performs another great function; it also interprets or gives the meaning of the law and determines whether it is in conflict with the Constitution; if the latter, it is null and void. In the course of time, the decisions of the courts with reference to the meaning and constitutionality of certain classes of laws become the guides for the lower courts and for the legislative and executive departments of the government. In this way the courts hold a certain veto power over legislation and even, by their interpretations of the laws and the Constitution, exercise to a certain degree the law-making power. We thus see how intimately the three great departments of government coöperate in the law-making function and in the realization of the ends for which the Constitution was established.

Though these three departments are coördinate and in their spheres independent of one another, the courts in a sense are supreme, for the other two departments

must bow to their interpretation of the Constitution and the laws. To protect the other departments against dangerous assumptions of power by the courts, the Constitution gives Congress the power to impeach and remove the offending judge. It also gives the President power to appoint judges to fill vacancies and to constitute new courts that may be established by law. It further provides that the people may amend the Constitution itself, thus removing a difficulty which the court may have interposed. Congress may interpose another check against the courts by refusing to provide for their expenses and for the proper officers to execute their mandates. Congress may enact a law increasing the number of judges of the Supreme Court, and the President may fill the new places with men in accord with his own views, and thus secure a reversal of the court's opinion. The President may even go so far as to decline to support a court in the exercise of what he may consider arbitrary power by refusing to obey its orders or to send soldiers to enforce its decrees when its own officers are defied, as was done by President Jackson in the case of the Cherokee Nation *vs.* Georgia, and by President Lincoln in refusing to obey the writ of *habeas corpus* issued by Chief Justice Taney. Such refusals have been very rare, however, and might be considered sufficient cause for impeachment by the House of Representatives. You thus see how important it is that the prerogatives of each department of government be clearly defined, and that each exercise such generous consideration for the rights of the others as will insure harmonious and prosperous administration of government.

Article III, Section 1 of the Constitution says:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and inferior Courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

In accordance with this provision, Congress has organized,—

(a) a Supreme Court, since 1869, composed of one Chief Justice and eight Associate Justices, and

(b) the following inferior courts:—

1. District Courts, there being now sixty-nine districts exclusive of the territorial districts.

2. Nine Circuit Courts.

3. Nine Circuit Courts of Appeal.

4. Special Courts, as the Court of Claims, Territorial Courts, Courts of the District of Columbia, and Consular Courts.

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority ; to all cases affecting ambassadors, other public ministers, and consuls ; to all cases of admiralty and maritime jurisdiction ; to controversies to which the United States shall be a party ; to controversies between two or more States ; between a State and citizens of another State ; between citizens of different States ; between citizens of the same State claiming lands under grants of different States ; and between a State, or the citizens thereof, and foreign States, citizens, or subjects." III, 1, 2.

The bounds and jurisdiction of the different courts are defined by the law creating them.

The Supreme Court has original jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party. It has jurisdiction in certain classes of appeal cases from the lower United States Courts and from the State Supreme Courts. III, 2.

The Associate Justices receive \$10,000 per year, and the Chief Justice \$10,500.

A Circuit Court of Appeals was organized for each circuit by the law of 1891. Each Circuit Court of Appeals is constituted by any two of the following sitting together or by any one of them sitting alone; the Chief Justice or the Associate Justice of the Supreme Court and the circuit judges for that particular circuit and any one of the district judges of the circuit. It passes upon certain classes of appeal cases from the district and circuit courts before they go to the Supreme Court. Its action, however, is final in some of them; in others an appeal is still allowed.

The Nine Circuit Courts are next in rank. The country is divided into a sufficient number of circuits to give one circuit to every member of the Supreme Court. Originally that member, when his duties permitted, and a district judge constituted the circuit court. The law of 1869 provided for the appointment of one circuit judge for each circuit, and the law of 1891 for two circuit judges for each circuit, but still the district judges sitting alone transact a large proportion of circuit court business. The circuit court has original jurisdiction in the larger cases of law and equity, but does not hear cases on appeal from the district courts.

A **District Court** is assigned to each State and regularly organized territory, though a few larger States and territories have as high as three or four districts. These courts have jurisdiction over criminal and admiralty cases, bankruptcy suits, etc.

The Special Courts are: —

The Court of Claims, which considers claims against the United States and by a judicial procedure determines their validity, subject to approval and award by Congress.

The Courts of the District of Columbia and the Territorial Courts, which have local jurisdiction in certain classes of cases designated by law, with rights of appeal to the proper United States court.

The Consular Court, which is a court held by a consul for the hearing of certain minor cases in which American citizens are involved.

The various courts are provided with inferior officers, such as marshals, clerks, etc., to keep the record of the proceedings and to make arrests, summon jurors and witnesses, and enforce their decrees. The Supreme Court and the Circuit Courts of Appeals appoint their own marshals. Each court appoints its own clerk and reporter. The President appoints the marshal and a district attorney for each district. The latter represents the Attorney General and prosecutes violations of the United States laws in his district. The judges are authorized to appoint as many court commissioners as may seem wise, whose duty is mainly supplementary to that of the judges. They are empowered to conduct preliminary trials, make arrests, and take testimony.

Limitations on the Courts. — The trial for all crimes except impeachment shall be by jury.

The trial shall be in the State where the crime was committed ; if the crime was not committed within any State, then Congress shall by law designate where the trial shall take place. III, 2, 3.

"In suits at common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any Court of the United States than according to the rules of the common law." *Amendment VII.*

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger ; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb ; nor shall he be compelled in any criminal case, to be a witness against himself ; nor be deprived of life, liberty, or property, without due process of law ; nor shall private property be taken for public use without just compensation." *Amendment V.*

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation ; to be confronted with the witnesses against him ; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence." *Amendment VI.*

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." *Amendment VIII.*

"The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States

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by citizens of another State, or by citizens or subjects of any foreign State." *Amendment XI.*

Treason and its Penalties. — "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on testimony of two witnesses to the same overt act, or on confession in open Court." III, 3, 1.

CHAPTER VII.

RIGHTS RESERVED TO THE STATES, ETC.

THE puzzling problems continually arising between the States and the citizens of the different States required adjustment, and they were happily met by the provisions in Article IV and elsewhere.

Powers and Rights granted or Reserved. — To petition Congress for a convention to propose amendments to the Constitution, two-thirds of the States concurring. V.

To approve amendments proposed by Congress, three-fourths of the States concurring. V.

To elect two members of the Senate of the United States. I, 3, 1.

To fix the times, manner, and places of holding elections for senators and representatives, though Congress may make or alter such regulations, except as to the places of choosing senators. I, 4, 1.

To maintain a State militia, appointing the officers for the same, though the discipline shall be prescribed by Congress. I, 8, 16.

To have their records and judicial proceedings recognized by other States. IV, 1.

To have persons charged with crimes who flee from justice to other States returned on demand of the executive authority of the State from which they fled. IV, 2.

To be guaranteed a republican form of government,

and to be protected from foreign invasion or domestic violence on application of the executive or of the legislature if in session. IV, 4.

Such powers are reserved as have not been delegated to the United States by the Constitution, nor by it prohibited to the States. *Amendment X.*

No State, without its consent, shall be deprived of its equal suffrage in the Senate. V.

Powers denied to the States.—The States are prohibited in general from exercising all powers granted to Congress as characteristic of a sovereign government.

From passing any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or granting any title of nobility. I, 10, 1.

From laying imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws, the net produce if any, going to the treasury of the United States. I, 10, 2.

From laying duty of tonnage, keeping troops or ships of war in time of peace, entering into any compact or agreement with any other State or with any foreign power or engaging in war unless actually invaded or in such imminent danger as will not admit of delay, unless Congress consent to the same. I, 10, 3.

From forming new States out of their own territory. IV, 3, 1.

From establishing slavery or involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted. *Amendment XIII.*

From making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States.

From depriving any person of life, liberty, or property without due process of law.

From withholding from any person within its jurisdiction the equal protection of the laws. *Amendment XIV, 1.*

From denying or abridging the right to vote to any male citizen of the United States twenty-one years of age, on account of race, color, or previous condition of servitude, or for any other cause, except for participation in rebellion or other crime. *Amendments XV and XIV, 2.*

From paying or assuming any debt or obligation incurred in aid of insurrection or rebellion, or any claim for the loss or emancipation of any slave. *Amendment XIV, 4.*

MISCELLANEOUS.

The Formation of New States. — “New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.” *IV, 3, 1.*

Territorial Government and Control of Property. — “The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State. *IV, 3, 2.*

Under the authority of this clause Congress has provided for the government of the various territories acquired or set apart by it. In some cases the provision has been but a temporary expedient to preserve order and to protect individual and government property, but

the regularly constituted territorial governments have been in general modelled after that provided for the Northwest Territory by the Ordinance of 1787.

The territorial executive officers, including the governor and the general judiciary, are appointed by the President. The legislature is usually composed of two houses elected by the people of the territory. The territories do not adopt constitutions, but are subject to the general laws of the United States and the provisions of the particular law establishing them. The legislature is given authority to enact such territorial laws as may be necessary for the government of the territory subject to the approval of the governor. The upper house of the legislative assembly of the territory of Oklahoma is called the Council and consists of thirteen members. The lower is called the House of Representatives and consists of twenty-six members, all elected by popular vote and hold their office for two years.

The acquisition of the islands of Hawaii, Porto Rico, Guam, Tutuila, the Philippines, etc., has demanded a little greater variety of forms of temporary and territorial government than heretofore, and has provoked much discussion as to their real status under the national government. The smaller islands of Guam and Tutuila are not regularly organized territories, and are allowed less autonomy than the others. The Philippines proper have thus far been largely under military rule, awaiting the establishment of a permanent territorial form of government.

In organizing Hawaii, it was permitted to retain such portions of its constitution and laws as were not in conflict with the Constitution and laws of the United States. The legislature is composed of a senate of fifteen mem-

bers, with a four years' term of office, and a house of representatives of thirty members, with a two years' term of office. The executive power is vested in a governor and a secretary, appointed by the President of the United States, and other officers appointed by the governor by and with the advice and consent of the senate of Hawaii. The general judicial officers are all appointed by the President. The act providing for the temporary government of Porto Rico places the executive power in the hands of a governor and a secretary, attorney general, treasurer, auditor, commissioner of the interior, and commissioner of education, all appointed by the President of the United States. The legislative power is vested in the foregoing officers and five other persons, native inhabitants of Porto Rico, who together constitute an executive council, and a house of delegates of thirty-five members. The delegates are elected biennially by popular vote, every citizen with one year's residence being entitled to vote. The justices of the supreme court and the marshal, together with the judge and other officers of the Porto Rican federal district court, are appointed by the President of the United States; the judges of the Porto Rican district courts are appointed by the governor under approval of the executive council.

The administration of the details of government in most of the territories differs little from that in the different States of the Union. Each organized territory elects a delegate to Congress who has the right to sit on the floor of the House of Representatives and to enjoy the privileges of membership, save that of serving on committees and voting.

Consult your histories for full information con

the different methods by which the United States has acquired new territory. Have any States been admitted without going through the territorial stage?

Public Debts. — "All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation." VI, 1.

The Supreme Law. — "This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." VI, 2.

Oaths and Religious Tests. — "The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath, or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States." VI, 3.

Individual Rights. — With all its wise and statesman-like provisions, it is surprising that in the jealous care with which the rights of the States were protected the rights of the individual citizens were so generally left unguarded. The Declaration of Independence was based on the failure of the people to secure redress of cruel wrongs against individuals rather than against the colonies as such, and yet the constitutional convention was so fascinated with the republican idea that it overlooked the possibility of a government of the people becoming as despotic and as disregardful of individual rights or of the rights of the minority as a king or a

czar. This proved to be the vulnerable part in the new Constitution, and its enemies lost no time in arousing the people to a sense of the imminent danger involved. The friends of the Constitution soon saw the wisdom of the objection and, as heretofore stated, at once agreed to submit appropriate amendments at the first meeting of Congress. The people showed their confidence in their promises by approving the Constitution, and the first ten amendments were promptly adopted and ratified by the States.

Please take a copy of the Declaration of Independence and compare its specific charges with these amendments. They will explain the reasons for adopting several of them. These safeguards of the people are our most precious heritage, and every youth should be familiar with them. They constitute the Bill of Rights of every American citizen and are his House of Refuge guarded by the majesty of the most beneficent government in all history.

See the full text of the amendments at the end of the Constitution, on p. 304.

How Amendments are made. — "The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of the Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress." V.

CHAPTER VIII.

THE GROWTH OF OUR COUNTRY UNDER THE CONSTITUTION.

THE formal act of adopting a constitution did not at once remedy the evils under which the people labored. It merely provided a way whereby they might be remedied, but its efficacy depended entirely upon the interpretation of its various provisions and the spirit in which they were executed. Many clauses in the Constitution were so explicit that there could be no difference of opinion concerning their meaning, but others were so vague or so general in their character that the problem of interpreting them called forth the best energies of the most profound lawyers and jurists of the nation.

Naturally two parties sprang up: one advocating a strict observance of the letter of the Constitution, the other advocating a more liberal interpretation and the exercise of certain implied powers by the different departments of government. The latter was called the centralization or the Federal party, and was led by Washington, Hamilton, and others. The former was called the strict construction or the Anti-Federalist party, though its official title, until 1828, was the Democratic-Republican party. It was also called the Republican party and was led by Thomas Jefferson, Aaron Burr, and others. On this same ground, though with shifting positions, nearly all the great presidential campaigns have been fought. The strict construction party for-

mally assumed the name of the Democratic party in 1828, and the party of centralization the name of the Republican party in 1856. The debates of the first fifteen years of the constitutional period were devoted largely to the functions and limitations of the three great departments of government, and there was much uncertainty in the minds of the people generally whether the government they had established possessed sufficient vitality and coherency to insure its perpetuity.

In those hours of foreboding, John Marshall, a man who seemed sent by Providence, was appointed Chief Justice of the Supreme Court of the United States. Almost as if by magic the apparent discordance in the Constitution disappeared and it at once became a living organism through which the hopes and the aspirations of the people were giving sufficient power and dignity to the government to enable it to assert its sovereignty over every foot of its domain. Each department of government soon learned its sphere, and the various States found their true articulation with each other and with the general government. It is hardly possible to conceive how potent an influence Chief Justice Marshall exerted over the minds of all parties and all factions by his wise and far-reaching exposition of the Constitution in delivering the opinions of the court over which he presided. Though the convention in Philadelphia framed the Constitution, John Marshall gave it the breath of life.

You have read in your histories of the growth over the establishment of the national bank, tariff laws, the extension of territory, the abolition of slavery, the national policy, and the progress to internal improvements, the r

an act of Congress or to secede from the Union, the right of every citizen regardless of color or previous condition of servitude to equality before the law, the national banking system, the free coinage of silver, the right of the government to annex foreign territory without the consent of the inhabitants, and other momentous questions which have agitated the public minds since Marshall's day. All involve constitutional questions, and show that with the onward march of events they will ever be recurring, and that their solution will always be demanding the services of the wisest and ablest citizens of the Republic. The nation has passed through many dangerous crises, but the courage, the patriotism, the magnanimity, the keen foresight of the leaders, and of the people as a whole, have brought us out of each wiser and stronger than ever. An appeal to the Constitution has seldom been made in vain. Its spirit has been large enough to span the continent and to embrace islands in the far distant seas, and at the same time to protect the life and property and liberty of the humblest citizen at home or abroad. Its beneficent and sustaining power is seen in every hamlet in the land. Its fibres inseparably intertwine with the institutions that have become the priceless heritage of the Anglo-Saxon race and have thus made possible the unprecedented growth of the last hundred years. It has become a synonym for justice and equality, and hence makes industrial and commercial progress possible. In guaranteeing to every one the reward of his toil and the right to his savings, it stimulates labor and encourages economy; in protecting him in his home, it insures the safety and happiness of himself and of those whom he loves; in assuring him liberty of thought and of conscience, it gives him

the privilege of being a man ; in throwing upon him the responsibility of a voter and a participator in the affairs of government, it impels him to be conservative and thoughtful ; in conferring all these boons upon him, it arouses his affection and quickens his devotion to its interests as at one with his own.

In a land with such varied natural resources as ours and under the protecting care of such a government, is it any marvel to you that our country should be making such wondrous strides in material development ? No other nation has such a history. In a single century it has become the peer in intelligence, wealth, and influence of the nations of the Old World whose origin dates back beyond the birth of Christ. In population it has risen from three and a half million to seventy-six million ; in extent of territory from about half a million square miles to 3,792,626 ; in wealth from less than two billion to about a hundred billion dollars. The annual earnings of the people of the United States are now about fifteen billion dollars, or more than twice as much as those of any other country. The number of States has increased from thirteen to forty-five ; the annexation of the rich territory of Alaska, and the fertile islands of Hawaii, Porto Rico, the Philippines, and other small groups has added greatly to the variety and amount of each year's mineral and agricultural products as well as to the volume of its commerce.

In 1800 our exports were but a few million dollars ; in 1900 their value was nearly one and a half billion dollars, more than one-half of which was the direct product of the soil. The value of the imports from foreign lands amounted to about three-quarters of a billion dollars. The railways are more numerous than were continuous

wagon roads at the opening of the last century. No nation on the earth equals it in the number of miles of railway track and in the value of their equipments. Wherever we turn, the song of the harvester, the hum of the spindle, the roar of the on-rushing locomotive, reveal to us the triumph of the Constitution in its great effort "*to promote the general welfare.*"

But our thousand times a thousand hills flecked with lusty kine and bleating sheep; our thousand cities pulsing with the throbbing life of never-tiring industry and of ever extending trade; our rich mines that pour out their lavish wealth of coal and gold and silver and copper and lead and salt and zinc; our stately palaces of granite and of marble; even our pantheons of science and literature and art would count for little were not those higher aims of the Constitution also realizing, — were not *justice being established, domestic tranquillity preserved, and the blessings of liberty vouched to every citizen whether he be of high or low degree.* These higher aims are sometimes lost sight of in the eager greed with which the people pursue wealth; but the moral sense of the nation has ever been strong enough to restore them again to their proper place, and to insist that they shall be the true test of the constitutionality and righteousness of all laws.

It was soon seen that the perpetuity of the government depended upon the intelligence and integrity of the masses of the people, and hence every encouragement possible has been given to education and religion. Congress has made liberal grants of land to the States for the support of the public schools and of higher institutions of learning. Every State now has a system of common schools providing for the free education of its

children, many of them maintaining universities, industrial colleges, and normal schools of a high order. Late statistics show that there are in the United States 243,000 schoolhouses valued at \$493,000,000, that \$194,000,000 are spent annually for their support, that over 15,000,000 children are in attendance and taught by 410,000 teachers. There are 675 institutions of higher learning, with property valued at \$312,000,000, some of them having princely incomes ranging from \$500,000 to \$1,000,000 per year.

There are 175,000 church congregations in the land, and probably twice as many local benevolent, fraternal, scientific, literary, art, and general educational organizations. There are about 4000 public libraries, including the little village collections of a few hundred books and the great college, city, State, and National libraries with their hundreds of thousands of volumes. The total number of different periodicals published, including all kinds of newspapers, magazines, and reviews, is 20,000, some of them having a circulation approaching 1,000,000 copies. All of these mighty engines conspire with the home and the other community forces for the education and enlightenment of the people and for the clearer understanding of the principles that should control human conduct and dominate the policy of the State.

The discoveries of inventive genius, the triumphs of industrial skill, the achievements in philosophy, in science, in art and in diplomacy, the progress made in settling questions affecting the rights and the happiness of the common people, the success of the nation in attaining and maintaining dignity and influence among the great powers of the world, the moral force it has

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been able to exert in the congresses of the nations, and in extending the blessings of liberty to the people of all lands, should make every American boy and girl thrill with gratitude and pride as he looks upon the flag whose honor it is his duty to defend with his fortune and his life.

PART III.

**ANALYSIS OF THE CONSTITUTION OF KANSAS AND
OF THE GENERAL STATUTES RELATING
TO OFFICIALS AND THEIR DUTIES.**



GOVERNMENT OF KANSAS.

The following outline of the leading features of the government of the State of Kansas is made from the Constitution and the statute laws. Every provision of the Constitution is given in substance or in the original words. The figures at the end of various paragraphs indicate the article and section of the Constitution where the provision may be found. In defining the duties of the various officers equal care has been taken to embody the substance or the original words of the statutory provision. The student is referred to the general statutes and session laws of Kansas for the details which limited space prevents giving here.

THE Spaniards under Cabeza de Vaca, 1530, appear to have been the first white people to visit the territory now embraced within the bounds of the State of Kansas. Francisco de Coronado visited it in 1541. Nearly two hundred years later trading posts were established by the French, and early in the present century a few American families settled in the eastern border. The territory was organized May 30, 1854. The first constitutional convention assembled at Lecompton in 1855, the second at the same place in 1857, the third at Leavenworth in 1858, the fourth at Wyandotte in 1859. The constitution proposed at this last named place and known as the Wyandotte constitution was adopted October 4, 1859, receiving 10,421 votes against 5,530. The State was admitted to the Union January 29, 1861. Though efforts have been made from time to time to secure a convention to propose a new constitution, the people of

the State have been satisfied to amend several articles without agreeing to a complete revision. There are now one hundred and five counties in the State.

Your attention is called to the many points of similarity between the bill of rights and the rights reserved to individuals in the Constitution of the United States and between the general provisions in the two constitutions. Note how happily the State Constitution articulates with that of the Union as a whole.

The differences should also be carefully noted.

The State exercises within its sphere the attributes of sovereignty and the limitations placed upon the State Constitution by virtue of the fact that it is the organic law of a subordinate division of the national government, necessarily make its provisions less general in character than those of the National Constitution.

The State Constitution has also a specifically local coloring and provides for the exercise of such governmental functions as come in direct touch with the home life of the people and with their every-day affairs. It endeavors to carry out in detail many of the objects for which the general government was established.

The policy of the general government has always been to raise most of its revenues by indirect taxation, while the States raise theirs principally by direct taxation.

The policy of the general government has been to make such river, harbor, and coast improvements as would facilitate commerce and benefit the people as a whole, devoting but a small proportion of its funds to what may be strictly called *internal improvements*, while the States or their subdivisions under State Laws spend great sums of money in building canals, dredging rivers, draining swamp lands, making roads, building bridges

and levees, experimenting with soils, irrigation, testing mineral deposits, etc.

The general government leaves the whole question of the organization, maintenance, and supervision of the public schools to the States, aiding by liberal gifts of public lands and by the valuable reports and friendly advices of the national bureau of education.

Another fundamental difference will also be noticed. The various subordinate functions of the national executive are performed by the members of the President's cabinet appointed by himself, while these functions of the executive department in the States are with unimportant exceptions assigned to officers elected by the people of the State at large. Though the governor is the chief executive officer of the State, the other elective executive officers are not amenable to him but to the people.

PREAMBLE TO THE CONSTITUTION OF THE STATE.

We, the people of Kansas, grateful to Almighty God for our civil and religious privileges, in order to ensure the full enjoyment of our rights as American citizens, do ordain and establish this Constitution of the State of Kansas, with the following boundaries, to wit: "Beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence running west on said parallel to the twenty-fifth meridian of longitude west from Washington, thence north on said meridian to the fortieth parallel of north latitude, thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said state to the place of beginning."

THE BILL OF RIGHTS DECLARES :

1. The equality of all men.
2. That all free governments are founded on the authority of the people, and are instituted for their equal protection and benefit.
3. That no perpetual special privileges or immunities shall ever be granted by the legislature.
4. That the people have the right to assemble in a peaceable manner, to consider their common good, and to petition for redress of grievances.
5. That the people have the right to bear arms for their defence and security ; but standing armies, in time of peace, shall not be tolerated, and the militia shall be in strict subordination to the civil power.
6. That the right of trial by jury shall be inviolate.
7. That there shall be no slavery ; and no involuntary servitude, except for the punishment of crime.
8. That absolute freedom in religion shall always be enjoyed, and no property qualification or religious test shall interfere with civil rights.
9. That the right to the writ of *habeas corpus* shall not be suspended, except in case of invasion or rebellion.
10. That all persons shall be bailable by sufficient sureties, except for capital offences, where proof is evident or the presumption great.
11. That in all prosecutions the accused shall be allowed privileges of counsel, definite accusation, witnesses, impartial trial, etc., and no person shall be twice put in jeopardy for the same offence.
12. That the liberty of the press and speech shall be inviolate ; all persons being responsible for the abuse of such right.

13. That no person shall be transported from the state for any offence committed within the same, and no conviction in the state shall work a corruption of blood or forfeiture of estate.

14. That treason shall consist only in levying war against the state, adhering to its enemies, or giving them aid and comfort.

15. That no soldier shall, in time of peace, be quartered in any house without the consent of the occupant, nor in time of war, except as prescribed by law.

16. That the right of the people to be secure in their persons and property against unreasonable searches and seizures, shall be inviolate.

17. That no person shall be imprisoned for debt except in cases of fraud.

18. That citizens and aliens shall enjoy equal rights, save that the legislature may by law regulate the right of aliens to the purchase, use, and descent of property.

19. That all persons, for injuries suffered in person, reputation, or property, shall have remedy.

20. That no hereditary emoluments, honors, or privileges shall ever be granted by the state.

There are, as in all the states of the Union, three distinct departments of the government: the Executive, the Legislative, and the Judicial.

THE EXECUTIVE DEPARTMENT

Consists of a Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Attorney-General, and Superintendent of Public Instruction; who are chosen by the electors of the state the Tuesday succeeding the first Monday in November in even years, and hold

their offices for the term of two years from the second Monday in January next after their election. 1:1.

These officers receive salaries as provided by law, which shall neither be increased nor diminished during the period for which they shall have been elected. 1:15.

All are required to report in detail the doings of their several departments to the Governor at least ten days before the convening of each regular session of the legislature. 1:16.

The Supreme Executive Power is vested in the Governor of the state. No member of Congress, or officer of the state or of the United States, shall hold the office of Governor, except as herein provided. The Lieutenant-Governor, the President of the Senate, and the Speaker of the House of Representatives, in order, act as Governor in case of disability or vacancy in that office. 1:3, 10, 11, and 13.

The General Duties of the Governor are:—

To see that the laws are faithfully executed. 1:3.

At the commencement of every session of the legislature, to communicate to it, in writing, such information as he may possess in reference to the condition of the state, and recommend such measures as he may deem expedient. 1:5.

To issue all commissions provided by law. 1:9.

To transmit reports of executive and administrative officers to the legislature. 1:16.

His powers are named as follows:—

To require pertinent information in writing from the executive officers. 1:4.

On extraordinary occasions, to convene the legislature by proclamation. 1:5.

In case of disagreement between the two houses in

respect to the time of adjournment, he may adjourn the legislature to such time as he thinks proper, not beyond its regular meeting. 1:6.

To grant pardons, under regulations and restrictions prescribed by law. 1:7.

To use the great seal of Kansas. 1:8.

To fill vacancies in other executive offices, until filled at the next general election. 1:14.

To appoint a county sheriff in case of a vacancy. 3:11.

To fill all vacancies in judicial offices, if they occur more than thirty days preceding a general election, until filled at such election. 3:11.

To approve at his discretion all bills or joint resolutions passed by both houses of the legislature. 2:14.

To appoint by and with the advice and consent of the Senate, trustees of benevolent and educational institutions and such other officers as may be, provided by law. 7:1.

To fill vacancies in last named offices until the Senate confirms a successor. 7:3.

As Commander-in-Chief to call out the militia to execute the laws, to suppress insurrection, and to repel invasion. 8:4. His salary is \$3,000 and a residence.

Lieutenant-Governor. — The Lieutenant-Governor is president of the Senate and votes only when the Senate is equally divided. He succeeds to the office of Governor in case of the disability or removal from office of the latter. His salary as member of the State Board of the Railway Assessors is \$700 per year. He receives \$300 for his services as president of the Senate. 1:11 and 12.

Attorney-General. — The Attorney-General is required to give bond in the sum of \$5,000, with at least two approved sureties. He appears for the state as counsel in

all proceedings in the Supreme Court in which the state is an interested party, and in any other court when required by the Governor or either branch of the legislature; institutes suits on forfeited bonds or contracts in which the state is interested; advises and instructs county attorneys when requested by them; gives his opinion in writing upon all questions of law submitted to him by the legislature or any executive officer of the state. His salary is \$2,500 per year.

The State Auditor. — The State Auditor is required to give a bond in the sum of \$10,000, with at least two approved sureties. His duties are : to keep the accounts of the state with any state or territory, with the United States, with the several counties of the state, and with all public officers, corporations, and individuals having accounts with this state; to examine and approve all accounts of public officers which are to be paid out of the state treasury, the accounts of the members of the legislature, and of all persons authorized to receive money out of the treasury by virtue of any appropriation made by law; to draw warrants on the treasury, which must be countersigned by the treasurer, in favor of any person to whom the money is due; to keep a record of all warrants drawn by him, numbering the same; to include in his official biennial report detailed estimates of the necessary expenditures of the state for the next two fiscal years. It is also his duty to compile the assessment of railroad property, the accounts of the school lands, and the plats and field notes of all state surveys. He is also, ex-officio, State Land-office Register.

He appoints an assistant auditor and such clerks as are allowed him by law. His compensation is now fixed at \$2,500 per year.

Secretary of State. — The Secretary of State is required to give bond in the sum of \$10,000, with at least two approved sureties. He is the custodian of all records, maps, official bonds, and other valuable papers belonging to the state; also of the halls of the Senate and House of Representatives, when the legislature is not in session; he countersigns all proclamations and commissions issued by the Governor, and keeps a record of the same; publishes the laws and joint resolutions passed at each session of the legislature; furnishes copies of any records in his office upon the request of any person; makes reports and gives information respecting matters referred to him by the Governor or by either house of the legislature; and supplies county clerks with prescribed blanks. He furnishes the legislature with a certified list of its members, and usually presides at the organization of the House of Representatives.

He appoints an assistant secretary of state and such clerks as are allowed him by law. His compensation is now fixed at \$2,500 per year.

State Superintendent. — The State Superintendent of Public Instruction is required to give a bond for \$10,000, with two approved sureties. Every detail of the common school system is under his supervision; all blanks used by the county superintendents, teachers, and school officers of the state are prepared and furnished by him. He distributes the income of the state school fund and the annual taxes collected by the state for the support of common schools, to the treasurers of the counties entitled to the same; gives his opinion at the request of any county superintendent on all questions pertaining to the interpretation of the school laws and the manage-

ment of the schools; publishes the school laws with such regulations, instructions, and decisions appended as he may judge expedient. It is his duty to visit each county in the state at least once in two years; and to conduct such correspondence as may be necessary concerning the school systems of other states; he issues the certificates to institute conductors and instructors as ordered by the State Board of Education, and approves all contracts of county superintendents with said conductors and instructors.

He appoints an assistant state superintendent and such clerks as are allowed by law. His compensation is now \$2,000 per year.

The State Superintendent is chairman of the State Board of Education and secretary of the Board of School Fund Commissioners. He is also chairman of the State Text-book Commission, which adopts text-books for use in the public schools. The biennial reports of the State Superintendent of Public Instruction embrace a variety of valuable information concerning the schools in the state, including the number of pupils, the branches taught, the condition of the school fund, school lands, and other school property, the total moneys received and expended, and suggests plans for the management and improvement of the common schools.

State Treasurer. — The State Treasurer is required to give a bond for \$1,000,000, with sufficient approved sureties. All moneys belonging to the state, including the various school and university funds, are paid to and deposited with the State Treasurer. All moneys received from taxation or from interest on any funds belonging to the state are paid to him by the treasurers

of the several counties of the state or directly by the individuals from whom interest or other moneys are due to the state. His duties are : to countersign the warrants issued by the State Auditor ; to keep the various public moneys in the state treasury, paying out the same only as appropriated by law ; to keep a correct record of all moneys received and paid out ; to collect moneys from county treasurers and from all other persons from whom moneys are due the state ; to submit his books, accounts, and vouchers for inspection at least once a month, without previous notice to any committee of the legislature or to the examining board composed of the Governor, Secretary of State, and Auditor ; to make a complete report to the Governor biennially of all moneys received and paid out by him together with the balance remaining in the treasury ; to report to the State Superintendent in February and August of each year the amount of money in the treasury belonging to the annual school fund ; to issue duplicate and triplicate receipts respectively for certain moneys received, one of which must be filed with the State Auditor.

The State Treasurer appoints an assistant state treasurer and such clerks as are allowed him by law. His compensation is now fixed at \$2,500 per year.

The receipts of his office are now about \$3,000,000 annually. The various school funds now approximate \$7,000,000, and are invested in state, county, township, city, and school district bonds of Kansas. Monthly statements of the condition of the treasury are now issued, which can be secured by anybody on application.

State Printer. — The office of State Printer was created by an amendment to the Constitution, adopted in 1868. He is elected by the legislature in joint session on the

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third Tuesday in January of each regular session and holds his office for two years. All state printing, including that required by the various institutions, is done by him upon requisition made by the proper officer through the "Printing Board," which consists of the Secretary of State, Attorney-General, and State Treasurer. The rates are fixed by law. 15 : 4.

His compensation is the profit on the work done for the state. The total appropriation for the year ending June 20, 1900, was \$59,700; June 30, 1901, was \$67,500.

BOARDS AND STATE OFFICERS PROVIDED BY LAW.

Among the boards and state officers provided by law not elsewhere given are the following :—

The Executive Council, composed of the Governor, Secretary of State, Auditor, Treasurer, Attorney-General, and Superintendent of Public Instruction, has general charge of the capitol grounds and buildings, approves bonds of state officers, elects the official state paper, makes contracts for stationery and for stock for state printer, removes state printer on conviction of misdemeanor, etc.

The State Board of Equalization, composed of Secretary of State, Auditor, and Treasurer, equalizes county assessments for state taxes.

The State Board of Canvassers, composed of the Governor, Secretary of State, Auditor, Treasurer, and Attorney-General, canvasses the returns of the elections sent in from the various counties for the state and national officers.

The Sinking Fund Commissioners, composed of the Governor, Auditor, and Secretary of State, have control

of the investment of all sinking fund, or funds set apart for the payment of the state debt.

The State Board of Railroad Assessors, composed of the Lieutenant-Governor, Secretary of State, Treasurer, Auditor, and Attorney-General, inspects and assesses the railway property in the state and certifies to each county clerk the character and value of the railway property in his county for taxation. The same persons constitute

The Board of Appraisers and Assessors, whose duty it is to assess and certify in a similar way the property belonging to the telegraph and telephone companies.

The State Board of Agriculture, composed of the officers and executive committee of the State Agricultural Society with the Governor and Secretary of State, as *ex officio* members, devotes itself to gathering papers, reports, statistics, and other information concerning the agricultural resources and products of the state, encouraging county fairs and other exhibits of farm products, and disseminating information that may make the agricultural industries more profitable. Its reports are invaluable to the farming community and ought to be in every school-house and home in the state.

The State Board of Examination of the State Treasurer's office is composed of the Governor, Secretary of State, and Auditor. It is its duty to make monthly inspections of the books, accounts, records, funds, etc., in the custody of the State Treasurer and certify to the condition of the same. Such visits must be made without previous notice.

The State Board of Public Works, composed of three persons appointed by the Governor, supervises the erection of all buildings erected by the state unless other-

wise specified by the law making appropriation for any special building or buildings.¹

The State Board of Pardons, composed of three persons appointed by the Governor, hears petitions for the pardon of convicted criminals and makes recommendations on the same to the Governor in whom the constitution vests the pardoning power.¹

Among the other state boards are the boards of health, of pharmacy, of dentistry, of medical examiners, of charities and corrections, and the live-stock commission, whose functions are suggested in a general way by their titles. The members of these boards, as well as most of the other officers named in the following paragraphs, are appointed by the Governor, generally with the advice and consent of the Senate.

The laws provide for the appointment of a commissioner of forestry and irrigation, law of 1897, commissioner of labor statistics, law of 1885, state agent at Washington, state grain, mine, and oil inspectors, state librarian, bank commissioner, superintendent of insurance, and a director of free employment agency.

The State Board of Railway Commissioners consists of three members elected by the executive council. The term of the members is three years, one member being elected each year. Their duties are to regulate the railway service of the state, equalize freight rates, etc.

A State Fish Warden is appointed by the Governor, whose term of office is two years. His duties are to examine the streams of Kansas and to stock available waters with fish as they may be provided by the United

¹ The present Governor of Kansas did not appoint these two boards, deeming their services unnecessary and their salaries a needless expense to the state.

States government, societies, or individuals. He appoints a deputy fish warden for each county, whose duty it is to aid the commissioner of fisheries in stocking streams and waters and to prosecute violators of the fish laws of the state. See laws of 1877, 1895, and 1901.

The State Fiscal Agency.—The Governor, Secretary of State, and Auditor designate some bank in the city of New York as a state agency for the payment of bonds and coupons, issued by the state, or by any county, township, city, or school district.

THE LEGISLATIVE DEPARTMENT.

The legislative power of this state shall be vested in a House of Representatives and Senate. 2 : 2 and 10 : 1.

The Number of Representatives shall never exceed one hundred and twenty-five members. Every county casting two hundred and fifty votes is entitled to at least one member. In apportioning the state each county shall be divided into as many districts as it has representatives. A new apportionment must be made every five years on the basis of the census of the preceding year. The last apportionment was made in 1901. They hold their office for two years. 2 : 2 and 10 : 1 and 2.

The Number of Senators shall never exceed forty. They hold their office for four years and are elected in presidential years. 2 : 2.

Apportionments are made every five years. The last was made in 1901.

Qualifications.—No person shall be a member of the legislature who is not, at the time of his election, a qualified voter of, and resident in, the county or district for which he is elected. No member of Congress or officer of the United States shall be eligible to a seat in the

legislature. . If any person, after his election to the legislature, be elected to Congress, or elected or appointed to any office under the United States, his acceptance thereof shall vacate his seat. No person convicted of embezzlement or misuse of the public funds shall have a seat in the legislature. 10:2; 2:4-6.

The Compensation of the members of the legislature is fixed at fifteen cents per mile for distance actually travelled in reaching the state capitol, and three dollars per day, for not to exceed fifty days in regular, and thirty days in special sessions. 2:3.

All Sessions of the legislature are held at the state capital, commencing on the second Tuesday of January in odd years. 2:25.

Quorum. — A majority of each house constitutes a quorum. Each house establishes its own rules and is judge of the elections, returns, and qualifications of its own members. 2:8.

Vacancies. — All vacancies occurring in either house are filled for the unexpired term by election. 2:9.

The Duties and Powers of the legislature are as follows:

Each house keeps and publishes a journal of its own proceedings. The yeas and nays shall be taken and entered immediately on the journal, upon the final passage of every bill or joint resolution. 2:10.

The legislature has the power to provide for the election or appointment of all officers, and the filling of all vacancies not otherwise provided for in the Constitution. 2:19.

The legislature may confer upon tribunals transacting the county business of the several counties such powers of local legislation and administration as it shall deem expedient. 2:21.

The House of Representatives has the sole power to impeach. The Senate tries all impeachments. Two-thirds of the senators elected must concur to convict. 2:27. All officers may be impeached for any misdemeanor, but judgment shall not extend further than removal from office and disqualification to hold any office of profit, honor, or trust under this Constitution; but the party, whether convicted or acquitted, shall be liable to indictment, trial, judgment, and punishment, according to law. 2:28.

To fix salaries of all state and county officers, except members of the legislature. 1:15 and 3:13.

To increase the number of judicial districts, when two-thirds of the members of each house concur. Such district shall be compact and bounded by county lines. 3:14.

To increase the number of justices of the peace. 3:9.

To provide for taking the census every ten years. 2:26.

To divide the state into legislative districts every five years beginning with 1866. 10:2.

To determine jurisdiction of the courts of record. 3:8.

To provide for the selection by the bar of *pro tem.* judges in the district court. 3:20.

To provide for such county and township officers as may be necessary. 9:2.

To provide for organizing, equipping, and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States. 8:2.

To provide for organizing new counties, locating county seats, and changing county lines. 9:1.

To provide for a uniform and equal rate of assessment and taxation. 11:1.

To provide for taxing notes and bills held by all banks.
11 : 2.

Law Making. — Bills may originate in either house.
2 : 12.

The enacting clause of all laws shall be, "Be it enacted by the Legislature of the State of Kansas," and no law shall be enacted except by bill. 2 : 20.

No bill shall contain more than one subject, which shall be clearly expressed in its title. 2 : 16.

Every bill and joint resolution passed by the House of Representatives and Senate shall, within two days thereafter, be signed by the presiding officers, and presented to the Governor; if he approve, he shall sign it; but if not, he shall return it to the House of Representatives, which shall enter the objections at large upon its journal, and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections, to the Senate, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected, it shall become a law. But in all such cases, the vote shall be taken by yeas and nays, and entered upon the journals of each house. If any bill shall not be returned within three days (Sundays excepted) after it shall have been presented to the Governor, it shall become a law in like manner as if he had signed it, unless the legislature, by its adjournment, prevent its return, in which case it shall not become a law. 2 : 15.

Every bill shall be read on three separate days in each house, unless in case of emergency. Two-thirds of the house where such a bill is pending may, if deemed expedient, suspend the rules; but the reading of the bill by

section, on its final passage, shall in no case be dispensed with. 2:15.

All laws of a general nature shall have a uniform operation throughout the state, and in all cases where a general law can be made applicable, no special law shall be enacted. 2:17.

Privileges of Members. — Any member of either house may protest against any act or resolution; and such protest shall be entered on the journal.

For any speech or debate in either house, the members shall not be questioned elsewhere. No member of the legislature shall be subject to arrest — except for felony or breach of the peace — in going to or returning from the place of meeting, or during the continuance of the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement. 2:11 and 22.

Prohibitions upon the Legislature. — Neither house, without the consent of the other, shall adjourn for more than two days, Sunday excepted. 2:10.

The legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females. 2:23.

No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law, and no appropriation shall be for a longer term than two years. 2:24.

No special law shall be enacted where a general law can be made applicable. 2:17.

It shall not vacate the office of any district judge. 3:14.

It shall not organize any county with an area of less than 432 sq. miles. 9:1.

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It shall not change county seat without consent of a majority of the electors of the county. 9:1.

No right of way shall be appropriated to the use of any corporation, except as see 12:4.

It shall not increase the compensation of judges of District and Supreme Court during their respective terms of office. 3:13.

No bank shall be established otherwise than under a general banking law. 13:1.

The State shall not be a stockholder in any banking institution. 13:5.

No banking law shall be in force until the same shall have been submitted to a vote of the electors of the state at some general election and approved by a majority of all the votes cast at such election. 13:8.

It shall not create any office the tenure of which shall be longer than four years. 15:2.

Lotteries and the sale of lottery tickets are forever prohibited. 15:3.

Shall not license the manufacture and sale of intoxicating liquors. 15:10.

THE JUDICIAL POWER

Is vested in a Supreme Court, District Courts, Probate Courts, in Justices of the Peace, and such other courts inferior to the Supreme Court as may be provided by law. 3:1.

All judicial officers are required to live in their respective townships, counties, or districts during their term of office. 3:11.

The justices of the Supreme Court or judges of the District Court can receive no fees or perquisites, nor hold any other office of profit or trust under the author-

ity of the state or the United States, nor practise law in any of the courts in the state during their continuance in office. 3:13.

Justices of the Supreme Court and judges of the District Courts may be removed from office by two-thirds vote of both houses of the legislature; the party charged having notice and opportunity to be heard. 3:15.

The various courts have jurisdiction at chambers as provided by law. 3:16.

The Supreme Court. — The Supreme Court consists of one chief justice and six associate justices, who are elected by the electors of the state at large, and whose term of office is six years. They hold their offices until their successors have qualified. 3:2 and 12.

They are elected every two years in rotation. The present chief justice was elected in 1896. 3:2 and amendment adopted in November, 1900.

Jurisdiction. — The Supreme Court has original jurisdiction in proceedings in *quo warranto*, *mandamus*, and *habeas corpus*; and such appellate jurisdiction as may be provided by law. 3:3.

The Supreme Court may compel any inferior court or tribunal to execute its orders.

The decisions and opinions of the Supreme Court must always be given in writing.

Reporter and Clerk. — The justices of the Supreme Court appoint a reporter and clerk, who hold their offices for two years. 3:4.

The District Courts are organized by law with the concurrence of two-thirds of the members of each house. The districts must be formed of compact territory and bounded by county lines. 3:14.

New or unorganized counties are attached, for judi-

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cial purposes, to the most convenient judicial districts.
3: 19.

There are now thirty-six districts. The first, second, third, eighteenth, and twenty-ninth districts are composed of one county each; viz., in order, Leavenworth, Atchison, Shawnee, Sedgwick, and Wyandotte. The districts having the largest number of counties are the thirty-second and thirty-third, nine each.

The salaries of the district judges are fixed by law, and are now \$2,500 per year, except in a one-county district of over 65,000 inhabitants, where it is \$3,000. 3: 13.

Jurisdiction. — The district court has general original jurisdiction in all matters both civil and criminal, not otherwise provided by law, and jurisdiction in cases of appeal and error from all inferior courts and tribunals, and shall have a general supervision and control of all such inferior courts and tribunals, to prevent and correct errors and abuses.

Clerk. — Each county elects a clerk of the District Court. See his duties under *County Officers*.

Courts of Common Pleas. — The business in some of the larger counties sometimes becomes so great as to necessitate the organization of additional courts. A Court of Common Pleas was provided for Wyandotte County in 1891. This court has approximately the same jurisdiction as the district courts of the state.

A county court was created for Douglas County in 1901.

A Probate Court is established in each county, which is a court of record and has such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds, as may be prescribed by law, and has jurisdiction in cases of *habeas corpus*. This

court consists of one judge, who is elected by the qualified voters of the county, and holds his office for two years. He is his own clerk, and holds court at such times and receives for compensation such fees as may be prescribed by law. 3:8.

Jurisdiction. — In accord with the above constitutional provision, the law of 1868 specifies the original jurisdiction of the probate court as follows:—

“First, to take the proof of last wills and testaments, and admit them to probate; and to admit to record authenticated copies of last wills and testaments executed, proved, and admitted to probate in the courts of any other state, territory, or country. Second, to grant and revoke letters testamentary and of administration. Third, to direct and control the official acts of executors and administrators, settle their accounts and order the distribution of estates. Fourth, to appoint and remove guardians for minors, persons of unsound mind, and habitual drunkards, and make all necessary orders relating to their estates, to direct and control their official acts and to settle their accounts. Fifth, to bind apprentices, and exercise such control and make such orders respecting them and their masters as the law prescribes. Sixth, to hear and determine cases of *habeas corpus*. Seventh, to have and exercise the jurisdiction and authority provided by law respecting executors and administrators and the settlement of the estates of deceased persons.”

He also lists to the proper township trustee all estates in process of administration, for taxation purposes. Law of 1901.

The salaries range from two hundred and fifty dollars to three thousand dollars per year. In a majority

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of the larger counties it is from one thousand five hundred dollars to two thousand dollars.

The bond of the probate judge is fixed at \$3,000, with at least two approved sureties.

The probate judge issues licenses to marry and performs the ceremony when desired. He is required to keep a record of all licenses issued and of all marriage certificates received by him.

In case of a vacancy, the Governor fills it by appointment until the next general election.

Terms. — The Probate Court holds regular terms beginning on the first Monday in each month, and is practically in session all the year. The writs and processes of this court are served through the sheriff, though the probate judge may appoint a special sheriff when that officer is not in attendance.

City Courts. — A first and a second city court were established in Kansas City by the legislature of 1897 and a city court was established in Atchison, in Coffeyville, in Ft. Scott, in Leavenworth, in Topeka, and in Wichita by the legislature of 1899. These courts have concurrent jurisdiction with justices of the peace, and police justices, and in some cases with the District Courts.

Justice of the Peace. — Two in number are elected in each township, whose term of office is two years, and whose powers and duties are prescribed by law. The number may be increased in any township by law. 3 : 9.

ELECTIONS.

The general elections are held annually, on the Tuesday succeeding the first Monday in November in each even year.

Vote by Ballot. — The people vote at all elections by ballot. 4 : 1.

A Qualified Elector is any white¹ male person twenty-one years of age, with six months' residence in the state and thirty days in the precinct, who (*a*) is a citizen of the United States or (*b*) has legally declared his intention to become a citizen. 5 : 1.

Females with the other qualifications named for males are by law permitted to vote at school and municipal elections.

Disqualified. — The following classes are disqualified from voting : —

- (*a*) *Non compos mentis* or insane, under guardianship.
- (*b*) Convicted felons, unless restored to civil rights.
- (*c*) Dishonorably discharged soldiers.
- (*d*) Persons guilty of defrauding the United States or any state.

- (*e*) Givers or receivers of bribes.

- (*f*) Persons who have voluntarily borne arms against the United States, save those who have since served one year or more in the United States Army and have been honorably discharged from the same. By two-thirds vote of all the members of both houses of the legislature this last disability may be removed.

- (*g*) Regulars in the army or navy.

Absence from the state in service of the United States, or attendance at school, or lodgement in almshouse or public prison, shall not debar from suffrage. 5 : 2.

Proof of Qualification. — Methods of proving above shall be provided by law. 5 : 4.

¹ The fifteenth amendment to the Constitution of the United States annulled this word.

Registration of Voters. — All otherwise legally qualified citizens of cities of the first and second class are required to be registered once each calendar year in poll-books provided at the office of the city clerk in order to be entitled to vote at an election during the year. The registry must be made in person and must include name, age, occupation, and particular place of residence. The registration books are kept open all the year, except for the ten days preceding any election. The city clerk is required to give notice of the closing of the books at least five days before the day of closing, by publication for at least three days in a newspaper of general circulation.

Privileges of Electors. — During their attendance at elections, and in going to and returning therefrom, electors shall be privileged from arrest in all cases except treason, felony, or breach of the peace. 5 : 7.

Ineligible to Office. — No person is eligible to any office of trust or profit, who has given or accepted or knowingly carried a challenge to fight a duel. 5 : 5.

Every person who shall have given or offered a bribe to procure his election, shall be disqualified from holding office during the term for which he may have been elected. 5 : 6.

How Elections are Conducted. — Certificates of the fact that certain persons have been duly nominated by conventions or other processes recognized by law are filed under oath by the proper officers with the city or county clerk or with the Secretary of State as the offices for which the said persons are nominated are city, county, or state.

When state officers are to be elected, the Secretary of State sends to the county clerk of each county the names

of all candidates which have been legally filed in his office. These, together with the names of candidates furnished by the township and city clerks, are printed, together with the names of the candidates for the county offices, on one general ballot, the candidates of each political party being placed in separate columns with a small square on the right of each name. No name can appear more than once on a ballot. This "official ballot" must be delivered to the judges of election at least twelve hours before the time fixed by law for the opening of the polls.

At each polling place a sufficient number of booths, at least one for every sixty voters, must be erected by the township trustee, or mayor and clerk of incorporated cities, for the accommodation of the voters. Flags are put up fifty feet distant on each side of the polling place, inside of which limit no electioneering is allowed.

The election board is composed of three judges and two clerks, no more than two of the former or one of the latter can be from one political party.

When the voter appears he is supplied with one official ballot and retires alone to a booth to prepare this ballot. This is done by making a cross mark (x) in the circle at the top of his party ticket or in the square to the right of the name of the person for whom he wishes to vote. He then folds it and hands it back to one of the election judges who deposits it in the ballot box. Only those names so marked are counted by judges at the close of the polls. In case a voter makes affidavit that he cannot read the English language or is physically unable to mark his ballot, the election officers designate two of their number of different political parties to do the marking as directed by the voter.

Returns of all general elections properly certified and sealed are made by the judges of elections, to the county clerk and canvassed by the Board of County Commissioners.

All details of the system, which is known as the Australian election law, are carefully specified so as to insure independent voting and honest elections. It provides for conducting state, district, county, city, and township elections.

The legislature of 1901 provided for the optional use of voting machines.

For a copy of the full text of the laws, write to the Secretary of State or consult the session laws of 1893, 1897, and 1901.

Railroad employees who are required to be away from their election precincts on duty during the hours in which the polls are open, may vote in another precinct. Their votes are received by the judges of election, sealed in an envelope, and sent to the county clerk of the county in which the voters reside, who turns them over to the county commissioners when they meet to canvass the election returns.

EDUCATION.

The State Superintendent of Public Instruction, as stated elsewhere, is the supervising officer of the educational system of the state. 6:1. *See Executive Department.*

County Superintendent. — A superintendent of public instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law. 6:1. *See County Officers.*

Education to be Promoted. — The legislature is re-

quired to encourage the promotion of intellectual, moral, scientific, and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate, and university departments. 6:2.

Support of. — The public schools are supported by (1) the interest on the public school fund, which is made up from :—

(a) The sale of public lands granted to the state by the national government.

(b) The per cent on sale of public lands in the state, granted by Congress.

(c) Estates of persons dying without heir or will.

(2) Rents of public lands belonging to the state.

(3) Taxes provided by law. 6:3.

All money paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker-up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied, in the several counties in which the money is paid or fines collected, to the support of common schools. 6:6.

School Fund Commissioners. — The State Superintendent of Public Instruction, Secretary of State, and Attorney-General constitute a Board of Commissioners for the management and investment of the school funds. Any two of said commissioners make a quorum. 6:9.

Disbursement of Fund. — The income from the state school fund is disbursed annually by order of the state Superintendent to the district school treasurers through the several county treasurers, in proportion to the number of children between five and twenty-one years of age, though no school district maintaining a school less

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than three months in the year shall receive any portion of the fund. 6:4.

No Religious Sect or sects shall ever control any part of the common school or university funds of the state. 6:8.

State University.— Provision shall be made by law for the establishment, at some eligible and central point, of a State University, for the promotion of literature and the arts and sciences, including a normal and agricultural department. All funds arising from the sale or rents of lands granted by the United States are inviolably set apart for the support of said State University. 6:7.

In accord with this section of the Constitution, the legislature of 1863 established a State University at Lawrence, a State Agricultural College at Manhattan, and a State Normal School at Emporia, endowing them all with available lands granted by the general government. The annual income from the funds arising from the sale of these lands now amounts to about \$7,000, \$29,000, and \$13,000, respectively to the above-named institutions. All have fine buildings and large faculties. They report students in attendance for the year ending June 30, 1901, as follows: State University, 1,156; State Agricultural College, 1,321; State Normal School, 2,135. The legislature of 1901 provided for the organization of an auxiliary Normal School at Hays City.

The legislature makes annual appropriations of additional sums for the support of these institutions.

The State Board of Education is composed of the State Superintendent of public instruction, the Chancellor of the State University, the President of the State Agricultural College, the President of the State Normal School, and three others appointed by the Governor and confirmed by the Senate. The appointive members

of the Board hold their office for two years. They receive no compensation for their services, but their expenses are paid out of the state treasury.

The duties of the Board are, — To examine candidates and to approve courses of study in certain institutions of learning (see law of 1899), issue state certificates and diplomas as provided by law; to prepare courses of study for the county normal institutes and to issue certificates to teachers to conduct and instruct in the same.

State Text-Book Commission. — The laws of 1897 and 1898 provide for a state text-book commission of eight members, seven of which are appointed by the Governor; the state superintendent is *ex officio* a member and chairman. Its duty is to adopt text-books for the public schools and fix prices for the same. The contracts are made for five years.

(For further information about the public school system see *County Organization*.)

PUBLIC INSTITUTIONS.

Institutions for the benefit of the Insane, Blind, and Deaf and Dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the state, subject to such regulations as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created shall be appointed by the Governor, by and with the advice and consent of the Senate; and upon all nominations made by the Governor, the question shall be taken in yeas and nays and entered upon the journal. 7:1.

Benevolent, State. — Under this provision the legislature has established the following: the Insane Asylum, Topeka; the Insane Asylum, Osawatomie; the Reform

School, Topeka; the School for the Education of the Deaf and Dumb, Olathe; the Institution for the Education of the Blind, Kansas City; the Asylum for Idiotic and Imbecile Youth, Winfield; the Industrial School for Girls, Beloit; the Soldiers' Orphans' Home, Atchison. The general object of each is suggested by its title. With few exceptions, they have large and well arranged buildings. The legislature makes liberal appropriations each year for their support, the total for the year ending June 30, 1901, was nearly \$600,000. For detailed information concerning any of these institutions address its superintendent, who will be pleased to furnish it free.

They are under the control and supervision of the State Board of Charities and Corrections, which is composed of five members appointed by the Governor and confirmed by the Senate. Each member holds his office for three years and receives three dollars per day for time actually employed and mileage at ten cents per mile.

The charitable institutions are conducted under civil service regulations, which secures the services of experts for the care of the unfortunates who find a home in them. Law of 1901.

The State Soldiers' Home at Dodge City and the Mother Bickerdyke Annex at Ellsworth are under the supervision of a board of three managers appointed by the Governor.

Benevolent, County. — The respective counties of the state shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society. 7:4.

No old Union soldier or sailor, or his wife or children,

can be sent to the poor-house. In case of need, they must be cared for at their homes. Law of 1901.

Penitentiary. — The state penitentiary is at Lansing. The directors are appointed by the Governor by and with the consent of the Senate. 7:2. They hold their office for three years, one being appointed annually.

The Industrial Reformatory is located at Hutchinson. It is controlled by a board of three managers appointed by the Governor. Certain classes of criminals between sixteen and twenty-five years of age are sent to it at the discretion of the court.

THE MILITIA.

The militia is composed of all able-bodied male citizens between the ages of twenty-one and forty-five, except such as are exempted by the laws of the United States, or of this state; but all citizens, of any religious denomination whatever, who, from scruples of conscience may be averse to bearing arms, shall be exempted therefrom, upon such conditions as may be prescribed by law. 8:1.

Organization and Equipment. — The legislature provides for organizing, equipping, and disciplining the militia, which must be compatible with the laws of the United States. 8:2.

Commander-in-Chief. — The Governor is commander-in-chief, and has power to call out the militia to execute the laws, to suppress insurrection, and to repel invasion. 8:4.

Equipment. — There are about 1,500 stands of arms now in the custody of the state, about 2,000 uniforms, and other equipments for about 1,500 troops.

An Adjutant-General, through whose office the Governor transmits all his orders to the militia, is appointed

by the Governor and confirmed by the Senate for a term of two years.

The Kansas National Guard in time of peace is composed of not more than twenty-four companies of infantry, and of two batteries of light artillery located in as many different cities in the state. All of the members of the National Guard are volunteers, their terms of service being four years. They are equipped by the state and their expenses paid for the annual muster. They are also entitled to pay as provided by law while on duty at the annual muster or when called out by the Governor.

Military Board. — The general management of military affairs is in the hands of a military board composed of the brigadier-general, the adjutant-general, the judge-advocate-general and two colonels. They make all rules, regulations, etc., governing the militia, approve all contracts for military purposes, audit all claims, and perform such other duties as are prescribed by law.

FINANCE AND TAXATION.

Assessment and taxation must be uniform and equal.

11 : 1.

All property employed in banking shall bear taxation equal to that imposed upon the property of individuals.

11 : 2.

The legislature shall provide at each regular session for raising sufficient revenue to defray the current expenses of the state for two years. 11 : 3.

Every law levying taxes must distinctly state the object to which the tax is to be applied. 11 : 4.

Exemptions. — All property used exclusively for state, county, municipal, literary, educational, scientific,

religious, benevolent, and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempt from taxation.

11 : 1.

State Debt. — For the purpose of defraying extraordinary expenses, and making public improvements, the state may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes postponed nor diminished, until the interest and principal of such debt shall have been wholly paid. 11 : 5.

A debt beyond above limit may be contracted on the approval of the majority of all the votes cast at any general election to which it may have been submitted by the legislature. 11 : 6.

The state may borrow money to repel invasion, or suppress insurrection. 11 : 7.

Internal Improvements. — Art. 11, Sec. 8 of the Constitution prohibits the state from being a party in carrying on internal improvements. This does not, however, prevent counties, townships, and cities from aiding in the construction of railways and other internal improvements.

How Taxes are Levied and Collected. — The necessary expenditures for each year are first estimated and then the levies determined in proportion to the total amount of taxable property as shown by the assessors' returns.

The state levy is determined and fixed by law at each session of the legislature ; the county levy, by the Board of County Commissioners ; the township levy, by the township trustee with the advice and concurrence of the Board of County Commissioners ; the school district levy, by the annual school meeting ; the city levy, by the city council ; the county high school levy, by the Board of Trustees. The Secretary of State and the proper officers representing the other corporations named severally certify to the county clerk of each county the several amounts levied, together with the specific purpose for which each levy is made. The county clerk lists the various levies and determines the per cent on each dollar's worth of taxable property located in the several townships and school districts of the county. All pay the same per cent of tax of state or county taxes, but the city, township, and school district in which one's property is assessed determines the per cent of city, township, or school district tax. This complete tax roll, properly classified and entered in suitable books, is furnished by him to the county treasurer, who collects all taxes and distributes them in accordance with the provisions of the law to the treasurers of the various divisions of the government for whose benefit the levy was made.

CORPORATIONS.

The legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws, but all such laws may be amended or repealed. 12 : 1.

Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder, and such

other means as shall be provided by law; but such individual liability shall not apply to railroad corporations, nor to corporations for religious or charitable purposes. 12 : 2.

The title to all property of religious corporations shall vest in trustees, whose election shall be by the members of such corporations. 12 : 3.

No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation. 12 : 4.

Provision shall be made by general law for the organization of cities, towns, and villages; and their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, shall be so restricted as to prevent the abuse of such power. 12 : 5.

The term corporation, as used in this article, shall include all the associations and joint-stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name. 12 : 6.

MISCELLANEOUS.

The tenure of any office not herein provided for may be regulated by law; when not so declared, such office shall be held during the pleasure of the authority making the appointment. 15 : 2.

The legislature shall provide for the protection of the rights of women, in acquiring and possessing property, real, personal, and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children. 15 : 6.

The legislature may reduce the salaries of officers

who shall neglect the performance of any legal duty. 15:7.

The temporary seat of government was located at the city of Topeka, county of Shawnee. The first legislature under this Constitution submitted the question of the permanent location of the capital to a popular vote, and a majority of all the votes cast were for Topeka. 15:8.

A homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempt from forced sale, under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon; *provided*, the provisions of the section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife. 15:9.

The manufacture and sale of intoxicating liquors shall be forever prohibited in this state except for medical, scientific, and mechanical purposes. 15:10.

AMENDMENTS.

Amendments to the Constitution may be made by vote of two-thirds of the members of each branch of the legislature and the approval of a majority of the voters voting on the same at the next general election. At the same election not more than three shall be submitted. 14:1.

In the same manner a convention may be ordered to revise, amend, or change the Constitution. If the proposition is approved by a majority of all the electors voting at the next election, the legislature at its next session shall provide for the calling of the same.

14:2.

Amendments have been made as follows:—

Article XIII, Section 7, ratified in 1861.

Article II, Section 12, ratified in 1864.

Article V, Section 3, ratified in 1864.

Article V, Section 2, ratified in 1867.

Article XV, Section 4, ratified in 1868.

Article II, Section 2, ratified in 1873.

Article II, Section 25, ratified in 1875.

Article XI, Section 3, ratified in 1875.

Article II, Section 29, ratified in 1875.

Article IX, Section 3, ratified in 1876.

Article XV, Section 10, ratified in 1880.

Bill of Rights, Section 17, ratified in 1888.

Article III, Section 2, ratified in 1900.

BANKS AND CURRENCY.

No bank shall be established otherwise than under a general banking law. 13:1.

The state shall not be a stockholder in any banking institution. 13:5.

Other sections in the Constitution provide specifically how circulating notes may be issued and secured.

IMPEACHMENTS.

On February 14, 1862, the House of Representatives adopted resolutions impeaching Governor Charles Robinson, Secretary of State John W. Robinson, and

State Auditor George S. Hillyer. The impeachment managers were headed by the Honorable P. B. Plumb. On June 2, 1862, the Senate met as a court of impeachment. As a result of the trial, Governor Robinson was acquitted by practically a unanimous vote, while the Secretary of State and the Auditor were removed from office with similar unanimity. The charges were misdemeanors in office in disposing of state bonds in violation of the laws of the state.

On February 23, 1874, the House of Representatives adopted articles of impeachment against State Treasurer J. E. Hayes. On May 1, 1874, after the proceedings had advanced somewhat, Mr. Hayes resigned and the matter was dropped.

On February 28, 1891, the House of Representatives adopted articles of impeachment against Theodosius Botkin, judge of the thirty-second judicial district. After a heated contest he was acquitted by the Senate.

COUNTY ORGANIZATION.

As stated under the Legislative Department, county lines are established, county seats located, and county officers elected under provisions enacted by the legislature. 9:1.

Organized counties have all the rights of corporate bodies; to hold property, sue and be sued, make contracts, and exercise administrative powers as provided by law.

County Commissioners. — In counties having a population under 30,000, the county legislative body is composed of three commissioners, elected in rotation from each of the three districts into which the county is divided, each commissioner being elected for a term

of three years. In each county with a population over 30,000, the number of commissioners is the same as the number of its representatives in the legislature. They are elected at the same time as the representatives and hold their office for two years.

District Lines. — The district lines in the last named counties are the same as those of the representative districts: in all other counties they are fixed by the Board of County Commissioners in accordance with provisions of law.

Who Ineligible. — No person holding any state, county, township, or city office, or any employee, officer, or stockholder in any railroad in which the county owns stock, shall be eligible to the office of county commissioner.

Meetings. — They hold their meetings on the first Monday of each quarter,¹ and at such other times as the business of the Board may demand.

Powers and Duties. — The Board has power: To make such orders concerning the property belonging to the county as they may deem expedient; to examine and settle all accounts of the receipts and expenses of the county; to examine and settle and allow all accounts chargeable against the county and to issue county orders therefor as provided by law; to purchase sites for and to build and keep in repair county buildings, and cause the same to be insured in the name of the county treasurer, for the benefit of the county and in case there are no county buildings, to provide suitable rooms for county purposes; to apportion and order the levying of taxes as provided by law.

¹ First Monday after first Tuesday in April only

borrow, upon the credit of the county, a sum sufficient for the erection of county buildings, or to meet the current expenses of the county in case of a deficit in the county revenue; to represent the county and have the care of the county property, and the management of the business and concerns of the county, in all cases where no other provision is made by law; to set off, organize, and change the boundaries of townships in their respective counties, to designate and give names therefor and to fix the time and place of holding the first election therein; to establish one or more election precincts in any township, as the convenience of the inhabitants thereof may require; to lay out, alter, or discontinue any road running through one or more townships in such county, and also to perform such other duties respecting roads as may be provided by law; to alter or change the route of any state road within their respective counties; to grant licenses for keeping ferries and bridges in their respective counties, and such other licenses as may be prescribed by law; to approve the bonds of all county and township officers; to furnish necessary booths, poll-books, and stationery for conducting elections; to furnish the various county and township officers with necessary blank books, stationery, etc.; to canvass election returns and certify the same in the office of the county clerk; to publish after each meeting a full statement of the bills allowed; at the end of each year to publish detailed statements of the receipts and expenditures of the county and a statement of its indebtedness; to fill vacancies in the county offices as provided by law.

The other county officers are: County Clerk, Treasurer, Register of Deeds, Sheriff, Surveyor, Coroner,

Clerk of the District Court, Probate Judge, Superintendent of Public Instruction, County Attorney, who are chosen by the qualified voters of the whole county at the general election, occurring on the first Tuesday after the first Monday in November of the even years.

The term of each officer is two years, and the Sheriff and Treasurer are prohibited by the Constitution from serving more than two consecutive terms.

Their duties are as follows : —

County Attorney. — The County Attorney is required to give a bond of not less than \$1,000, to be fixed by the county board, with two or more approved sureties. It is his duty to represent the people in the courts of his particular county in all cases arising under the law of the state in which the state or county is a party or is interested; to prosecute all complaints made in behalf of the state when requested by any magistrate of his county; to give advice to the various county officers, when requested, upon all matters relating to the duties of their offices, or in which the state or county may have an interest; to appear before the grand jury, examine witnesses, give them legal advice, issue subpoenas and draw up bills of indictment, when requested by them; to prosecute violators of the election or license laws upon information being given him. The compensation is fixed by the county commissioners under certain limitations of the state law. The salaries in the various counties of the state range from \$400 to \$2,000.

The County Attorney may appoint a deputy, and in case of his absence or the absence of the deputy, any court before whom it is his duty to appear may appoint an attorney to act as county attorney.

County Clerk. — This officer is required to give a bond of not less than \$2,000 with approved sureties. He may appoint a deputy, but neither he nor his deputy can act as county treasurer nor as his deputy. The Board of County Commissioners fill the office in case of a vacancy. His duties are : to keep the records, papers, and seal of the Board of Commissioners; to keep a complete record of the transactions of the board, to sign all orders for money issued by the board, and to preserve and file all accounts acted upon by the same; to issue certificates of election to successful candidates; to certify to the Secretary of State all changes in township lines in his county; to keep an accurate record of all receipts and expenditures and of all accounts of the different county, township, district, and other officers; to keep a full account with the county treasurer, charging him with all taxes and funds coming into his hands and countersigning all receipts issued by said county treasurer; to make out and transmit the tax roll to the county treasurer; to make out a full statement of the assessed valuation of the property of each school district at least ten days before the annual meeting; to assess property overlooked by the township assessor; to make and forward to the State Auditor a complete exhibit of the financial condition of his county on the thirtieth day of June of each year.

Clerk of District Court. — The Clerk of the District Court is required to give a bond of not less than \$10,000 nor more than \$60,000, with at least two approved sureties. His duties are to perform all services required by the rules and practice of the courts and to safely keep and preserve all papers, processes, pleadings, and awards that may be filed in said court. He has authority to

administer oaths and affirmations in all cases in which an oath or affirmation may be required, and may take acknowledgments of deeds and mortgages and other instruments of writing in this state.

He is permitted to appoint one or more deputies who shall give such bonds as he may require.

His compensation ranges from \$400 to \$3,500.

Register of Deeds. — The Register of Deeds is required to give bond in the sum of \$2,000, with two or more approved sureties. He may appoint a deputy, who shall hold his office during the pleasure of the register. In case of vacancy in this office the Board of County Commissioners fill it. The duties of the Register of Deeds are: to have the custody and preservation of all the books, records, deeds, maps, and papers belonging to his office; to record in plain and distinct handwriting, in suitable books, all deeds, mortgages, maps, instruments, and writings authorized by law to be recorded in his office and left with him for that purpose; to keep a general index of all the records made in his office; to keep in well-bound books, platted maps of towns, villages, or additions to the same in his county, together with descriptions and acknowledgments thereon. The compensation of the register ranges from \$500 to \$5,000, being the fees received as determined by law.

Coroner. — The Coroner is required to give a bond of not less than \$500 nor more than \$5,000, with two approved sureties. His duties are: to act as sheriff when that officer is committed to jail, or when he is shown to be a party to a case, or whenever any party interested in a case makes proper affidavit that for specified reasons he believes the sheriff will not faithfully perform his duties in a suit; to hold an inquest upon the

dead bodies of such persons as are supposed to have died by unlawful means or the cause of whose death is unknown, summoning six citizens to act as a jury to inquire into the cause of the death; to summon necessary witnesses in all such cases and to administer oaths; to make full returns of all inquests to the county clerk; to order the arrest of persons charged with causing the death of the deceased, requiring the officer to take them before a justice of the peace for a hearing; to deliver the body of the deceased person to his friends, if any there be, or to cause him to be buried decently.

In the absence of a Coroner or in case of his inability to act, any justice of the peace is authorized to perform the duties of the Coroner.

The Coroner receives fees fixed by law for his services in all such cases.

Sheriff. — The Sheriff is required to give bonds of not less than \$3,000 or more than \$20,000, with at least three approved sureties. He appoints one under-sheriff and such deputies as may seem necessary. Such appointments must be in writing. The Governor fills the vacancy in the office of Sheriff. The Sheriff is the custodian of the jail and all the prisoners committed to the same. It is the duty of the Sheriff: to serve and execute according to law all processes, writs, precepts, and orders issued by any lawful authority; to attend upon the several courts of record held in his county; to preserve the peace; to quiet and suppress affrays, riots, and unlawful assemblies and insurrections, calling to his aid such person or persons as he may deem necessary.

The penalties for misconduct or for failure to perform his duties are more definitely fixed for the Sheriff than for any other of the county officers. The salary of the

Sheriff ranges from \$700 to \$5,000, being fees of the office as fixed by law.

County Surveyor. — The County Surveyor is required to give a bond for \$2,000 with at least two approved sureties. He may appoint such deputies as he may think proper. It is his duty to test his compass with a true meridian at least four times a year and record the same; to survey lands, as demand may be made upon him; to keep books of record with complete diagrams and notes of all surveys made by him, together with such information as will easily fix the location of corners and lines; to keep in his office copies duly certified of the field notes and plats of the original survey by the United States of the lands of his county; to administer oaths or affirmations to road viewers, with due notice as required by law; to locate and fix disputed lines and corners, etc. The compensation of the County Surveyor ranges from \$200 to \$1,500, being fees received as determined by law.

County Treasurer. — Unlike the other county officers, the Treasurer does not assume the duties of his office until the second Tuesday of October after his election. The bond is fixed by the county commissioners, who also may fill a vacancy occurring in the office. He collects all direct taxes and receives all moneys belonging to the county and pays them out on the orders of the proper officers, keeping full record of the same; publishes quarterly statements of the condition of the county treasury; remits the amounts collected as state taxes to the State Treasurer, and credits specific funds as directed by law.

His compensation varies from \$700 to \$2,500, depending upon the population of the county.

County Superintendent of Schools. — The County

Superintendent of Schools has the general supervision of the schools of his county. He is the official adviser of the school officers and teachers. He visits schools, holds educational meetings, and gives such general direction to the school work of his county as he deems expedient. He is chairman of the Teachers' Examining Board, apportions and distributes the state school fund apportioned to his county, hears appeals of suspended pupils, fills vacancies in district board, fixes and changes district boundaries, institutes suit against violators of the school law, examines accounts and record books of district officers, keeps a full list of the teachers in his county together with the grade of certificate, salary, etc.; secures from the county clerk, at least ten days before the annual meeting, a certified list of the assessed valuation of the property of each school district and certifies the same to the several school district clerks for the information of the annual school meeting, levies the district school tax when the annual meeting neglects to do so, employs and supervises conductors and instructors in the county institute, and performs a great variety of specific duties as are prescribed by law. He assumes the duties of his office on the second Monday in May after his election. In addition to his regular salary, he receives one dollar per school visited each year for travelling expenses; in Sumner County he receives twenty-five dollars per month extra for clerk hire.

County High Schools.—The law provides for the establishment of county high schools in counties with a population of 6,000 or over. They are under the control of a board of trustees of seven members, consisting of the county superintendent and six other persons elected by the county at large. They hold their office

for three years, the terms of two of them expiring each year. The board makes an estimate of the funds required for running the high school each year and certifies the tax required to the county commissioners, which is levied and collected as all other taxes. The limit for teachers' wages and contingent expenses is three mills, though if buildings are included, the levy may be as high as six mills.

The law of 1897 authorizes the county commissioners in counties having a population of less than 2,500 to employ a sufficient number of teachers in addition to those regularly employed by the district at the county seat to conduct a county high school *providing* its establishment be requested by a petition signed by a majority of the legal voters of the county or by an election held for the purpose of voting upon the question of establishing such a high school. Several county high schools have been authorized by special acts of the legislature.

Board of County Examiners.—The county superintendent and two persons, holding first-grade or state certificates or diplomas from the State University, State Agricultural College, or State Normal School, appointed by the Board of County Commissioners on nomination by the County Superintendent, constitute the County Examining Board. It is their duty to conduct the quarterly county examinations for teachers, the questions being furnished by the State Board of Education, and issue certificates to those appearing duly qualified according to law.

County Auditor.—In counties having a population of 45,000 or over it is the duty of the district judge to appoint a County Auditor, whose duties are to audit all

claims against the county and the accounts of the various officers directly responsible to the county. Shawnee, Wyandotte, and Leavenworth Counties have auditors.

Probate Judge, for duties of, see page 256.

TOWNSHIP ORGANIZATION.

The statute law declares that organized townships are corporate bodies, with all the rights of property, etc.

Boundaries. — The Board of County Commissioners fixes the boundaries of each township.

Elections. — Township elections occur on the first Tuesday after the first Monday in November each year.

Officers. — The Constitution provides for two Justices of the Peace in each township, whose term of office shall be two years and whose powers and duties shall be prescribed by law. The other township officers are provided by law and hold their office for one year, beginning with the Monday following their election and until their successors are qualified. (3:9, 9:4.) They are Treasurer, Trustee, Clerk, at least two Constables, and one Road Overseer for each road district in the township, the road overseer being voted for only by qualified voters of his particular district.

Trustee. — The duties of the township Trustee are: —

To divide his township into convenient road districts, and make such alterations in the same as may be necessary.

To fill all vacancies in the office of road overseer in his township.

To see to a proper application of all moneys belonging to his township for road purposes.

To prosecute violations of road laws.

To have the care and management of all property,

real and personal, belonging to his township, and to superintend the various interests thereof.

To cause a record to be made accurately defining the boundaries and number of each road district, as well as the alterations made in such district or districts in his township, and the number of road overseers in each township.

He has power to administer all oaths in the necessary discharge of the duties of his office.

He shall by virtue of his office be judge of elections and overseer of the poor.

He shall superintend all the pecuniary concerns of his township, and shall at the July session of the Board of County Commissioners, annually, with the advice and concurrence of said Board, levy a tax on the property in said township, for township, road, and other purposes, and report the same to the county clerk, who shall enter the same on the proper tax roll in a separate column or columns, and the treasurer shall collect the same as other taxes are collected; but in failure of such trustee and commissioners to concur, then the Board of County Commissioners shall levy such township, road, and other taxes.

He shall discharge such other duties as may be imposed by law.

The township Trustee is by law the township assessor, and from the assessment rolls furnished by the various township trustees, the county clerk makes out the full assessment and taxation lists for the entire county for the use of the county treasurer in collecting taxes.

Clerk. — The bond of the Clerk is \$300, to be approved by the chairman of the Board of County Commissioners. His duties are: to have the custody of all records.

papers, and books of the township not otherwise provided for by law; to keep a record of the transactions of all the township boards and of the reports of the various township officers; to certify to the county clerk the financial condition of the township, and such other duties as the law may provide.

Constables. — All constables are ministerial officers in justices' courts in their respective counties and have power to execute processes in civil and criminal cases in any part of the county, to suppress riots, affrays, and unlawful assemblies, and to call to their aid such assistance as may be necessary in the discharge of their official duties.

Justices of the Peace. — In response to a legal petition the county commissioners may, if the business demand, order an additional number of justices elected in any township. The number may be decreased in the same manner. Justices of the Peace have original jurisdiction in all civil cases where the amount in dispute does not exceed three hundred dollars and concurrent original jurisdiction with the district court coextensive with the respective counties in all criminal cases in which the fine cannot exceed \$500 and the imprisonment one year, and in a great variety of cases as prescribed by law. They have the power, as do all other magistrates, to order the arrest of any person committing an offence in their presence and hold the same in custody until a legal warrant for his arrest can be issued.

Road Overseer. — The Road Overseer gives bond for not less than twice the amount of moneys probably in his hand at any one time. His duties are: to open all roads ordered by the county commissioners, to collect

in work or money the road tax due from persons in his district liable to the same, giving a receipt therefor, to attend and direct the work on the roads in his district, to erect proper sign boards and bridge notices, to report, under penalty, to the township trustee before the 20th of March each year, the receipts and expenditures of his office, etc.

Highway Commissioners. — The township trustee, clerk and treasurer of each municipal township in the state constitute a Board of Commissioners of Highways for their respective townships, of which Board the first two are chairman and clerk respectively. The Board has charge of the roads and bridges in its township, and it is its duty to improve and keep them in repair, employing such overseers and laborers as may be necessary.

Auditing Board. — The trustee, clerk, and treasurer constitute the township Auditing Board, whose duty it is to pass upon claims and accounts against the township and to audit the accounts of the township officers.

SCHOOL DISTRICTS.

The boundaries of the school district are fixed by the county superintendent, subject to appeal to the county commissioners. The school district is a corporate body and is entitled to all rights as such as prescribed by law.

Officers. — The officers of each school district are a director, clerk, and treasurer, who constitute the District Board. Each holds his office for three years, one going out each year.

Duties and Powers. — It is the duty of the District Board to care for all the school property belonging to the district; to open the school-house for such meetings

as they may deem proper; to employ teachers; to provide suitable registers, furniture, apparatus, library, etc.; to prescribe the course of study to be pursued; to advise with the teacher in regard to the condition and management of the school, and make such regulations and suggestions as in their view will promote the interest and efficiency of the school; to levy the school tax and report the same to the county clerk; to purchase or lease a site for school-house, and to build, hire, or purchase a school-house as the voters of the district in a district meeting may order; and to perform such other duties as may be required by law.

The director presides at all the district meetings and meetings of the Board, and signs all orders drawn by the clerk, which have been authorized at the district meeting or by the District Board. The clerk and treasurer perform duties as their titles suggest under provisions of law.

Election. — The annual school meeting of the district is held on the last Thursday of July at two o'clock P.M., at which time the vacancy in the District Board is filled, the annual tax agreed upon, and such instructions as the law provides are given to the District Board.

CITY GOVERNMENT.

Cities are recognized as corporate bodies. When organized as provided by the law of the state they have the power to sue and be sued; to purchase and hold real and personal property for the use of the city, and to sell and to convey the same; to make all contracts and to do all other acts necessary to the exercise of corporate or administrative power; and to exercise such other powers as may be specified by law.

Classes of Cities. — The cities of the state are divided into three classes. Cities of the first class are those having a population of 15,000 inhabitants or more: the second class are those having a population of from 2,000 to 15,000: the other cities are designated as cities of the third class. They are all governed by a mayor and council as provided by law. The mayor is the executive officer and presides at the meetings of the council, having the power of approval or of disapproval of the ordinances passed by the council. The city council is a legislative body and enacts all ordinances necessary for the management of city affairs. The specific powers of the various classes of cities are fully defined by law and differ principally in the number of wards, number of members of the city council, amount of levy allowed, corporate debt permitted, manner of managing schools, etc. The schools of the first- and second-class cities are under the control of boards elected by the qualified voters of the city, and are not under the supervision of the county superintendent. The schools of the cities of the third class belong to the school districts in which located, and are supported and controlled the same as the other district schools of the state.

City Elections. — The elections in cities of the first and second class occur on the first Tuesday of April of each year, and of the third class on the first Monday in April. All elective officers hold their office for two years.

Qualification of Voters. — Women are recognized as legal voters in municipal elections, under the same qualifications as required by the state laws for men.

City Officers. — *Cities of the First Class:* The mayor, city clerk, city attorney, city treasurer, councilmen, and members of the board of education are elected by the

people of the entire city and of the several wards respectively, and serve for two years, except the members of the board of education, who serve two or three years, varying with population and organization of city. Their several duties are prescribed by state laws and city ordinances.

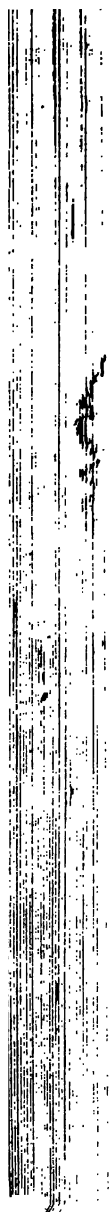
Cities of the Second Class: The mayor, police judge, city treasurer, treasurer of the board of education, a councilman and a member of the school board from each ward, justices of the peace and constables, are elective officers and hold their offices for two years. The city clerk, the city marshal, city attorney, the city assessor, the street commissioner, and such other officers as are deemed necessary, are appointed by the mayor, subject to approval of the council, and hold their offices for one year.

Cities of the Third Class: The mayor, police judge, and councilmen are elective officers in cities of the third class and hold their office for one year. The city clerk, city marshal, street commissioner, and such other officers as are deemed necessary, are appointed by the mayor, subject to the approval of the council.

Police Judge, Jurisdiction of. — The police judge has exclusive original jurisdiction in all cases of offences against the ordinances of the city and has power to enforce all orders or decrees made by him.

School Boards. — The School Boards in cities of the first and second class have full charge of all school property belonging to the city, and are intrusted with the management and conduct of the schools. They prescribe courses of study, examine and appoint teachers, recommend the tax levy to the city council, build school-houses, etc., etc. School boards in the third class cities are simply those of the school district of which the city is a part.

APPENDIX.



THE CONSTITUTION OF THE UNITED STATES OF AMERICA.¹

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE. I.

SECTION. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION. 2. [1] The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

[2] No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[3] Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers,² [which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons].³ The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; [and until such enumeration shall be made, the State of New Hampshire shall be entitled

¹ This text of the Constitution has been printed from the copy issued by the United States Department of State which bears the indorsement, "Compared with the original in the Department of State, April 13, 1891, and found to be correct." Those parts of the document in brackets [] are not in the original, or have been modified or superseded by amendments, or were temporary in their character.

² The apportionment under the census of 1900 is one representative to every 193,291.

³ The clause in brackets has been superseded by the thirteenth and fourteenth amendments.

to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.]

[4] When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

[5] The House of Representatives shall chuse their Speaker¹ and other Officers; and shall have the sole Power of Impeachment.

SECTION. 3. [1] The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

[2] Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

[3] No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

[4] The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

[5] The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

[6] The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

[7] Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

¹ The Speaker is always one of the representatives; the other officers are not.

SECTION. 4. [1] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof ; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

[2] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. [1] Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business ; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

[2] Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

[3] Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy ; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

[4] Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. [1] The Senators and Representatives shall receive a Compensation¹ for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same ; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

[2] No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time ; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. [1] All Bills for raising Revenue shall originate in the

¹ At present (1901) this is "\$5000 per annum, with \$125 annual allowance for stationery and newspapers, and a mileage allowance of twenty cents per mile of travel each way from their homes at each annual session."

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House of Representatives ; but the Senate may propose or concur with Amendments as on other Bills.

[2] Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States ; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together, with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

[3] Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States ; and before the same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. [1] The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States ; but all Duties, Imposts and Excises shall be uniform throughout the United States ;

[2] To borrow Money on the credit of the United States ;

[3] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes ;

[4] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States ;

[5] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures ;

[6] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States ;

[7] To establish Post Offices and post Roads ;

[8] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries ;

[9] To constitute Tribunals inferior to the supreme Court ;

[10] To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations ;

[11] To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water ;

[12] To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years ;

[13] To provide and maintain a Navy ;

[14] To make Rules for the Government and Regulation of the land and naval Forces ;

[15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions ;

[16] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress ;

[17] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings ;— And

[18] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. [1] [The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.]¹

[2] The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

[3] No Bill of Attainder or ex post facto Law shall be passed.

[4] No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

[5] No Tax or Duty shall be laid on Articles exported from any

¹ A temporary clause no longer in force.

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[6] No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another : nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

[7] No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law ; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

[8] No Title of Nobility shall be granted by the United States : And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.¹

SECTION. 10. [1] No State shall enter into any Treaty, Alliance, or Confederation ; grant Letters of Marque and Reprisal ; coin Money ; emit Bills of Credit ; make any Thing but gold and silver Coin a Tender in Payment of Debts ; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

[2] No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws : and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States ; and all such Laws shall be subject to the Revision and Controul of the Congress.

[3] No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.²

ARTICLE. II.

SECTION. 1. [1] The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

[2] Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress :

¹ The personal rights enumerated in Section 9, have been added to, and extended by Amendments I.-X.

² The provisions of Section 10 have been modified and extended by Amendments XIII.-XV.

but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[3] [The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each ; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed ; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President ; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote ; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.]¹

[4] The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes ; which Day shall be the same throughout the United States.

[5] No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President ; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

[6] In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

¹ This clause has been superseded by Amendment XII.

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[7] The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

[8] Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation :—“ I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

SECTION. 2. [1] The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States ; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

[2] He shall have Power, by and with the Advice and Consent of the Senate to make Treaties, provided two thirds of the Senators present concur ; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law : but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

[3] The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION. 3. [1] He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient ; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper ; he shall receive Ambassadors and other public Ministers ; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION. 4. [1] The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE. III.

SECTION. 1. [1] The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their continuance in Office.

SECTION. 2. [1] The judicial Power shall extend to all cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority ; — to all Cases affecting Ambassadors, other public Ministers and Consuls ; — to all Cases of admiralty and maritime Jurisdiction ; — to Controversies to which the United States shall be a Party ; — to Controversies between two or more States ; — between a State and Citizens of another State ;¹ between Citizens of different States, — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

[2] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such regulations as the Congress shall make.

[3] The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury ; and such Trial shall be held in the State where the said Crimes shall have been committed ; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION. 3. [1] Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

[2] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood or Forfeiture except during the Life of the Person attainted.

ARTICLE. IV.

SECTION. 1. [1] Full Faith and Credit shall be given in each State to the public Acts, Records and judicial Proceedings of every other

¹ Modified by Amendment XI.

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And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION. 2. [1] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.¹

[2] A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

[3] [No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.]²

SECTION. 3. [1] New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

[2] The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION. 4. [1] The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE. V.

[1] The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that [no

¹ Provisions extended by Amendment XIV.

² Superseded by Amendment XIII.

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Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article ; and that]¹ no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

ARTICLE. VI.

[1] All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

[2] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land ; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

[3] The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution ; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE. VII.

[1] The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In Witness whereof We have hereunto subscribed our Names,

G^o: WASHINGTON — *Presidt.*

and deputy from Virginia

Attest WILLIAM JACKSON *Secretary*

¹ Temporary in its nature.

ARTICLES

In addition to, and Amendment of the Constitution of the United States of America, proposed by Congress and ratified by the Legislatures of the Several States, pursuant to the Fifth Article of the Constitution.

[ARTICLE I.]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech, or of the press ; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

[ARTICLE II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

[ARTICLE III.]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

[ARTICLE IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[ARTICLE V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger ; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb ; nor shall

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be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law ; nor shall private property be taken for public use, without just compensation.

[ARTICLE VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation ; to be confronted with the witnesses against him ; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence.

[ARTICLE VII.]

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

[ARTICLE VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[ARTICLE IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[ARTICLE X.]¹

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[ARTICLE XI.]²

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

¹ Amendments I.-X. were proclaimed to be in force December 15, 1791.

² Proclaimed to be in force January 8, 1798.

[ARTICLE XII.]¹

The Electors shall meet in their respective states, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

[ARTICLE XIII.]²

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted,

¹ Proclaimed to be in force September 25, 1804.

² Proclaimed to be in force December 18, 1865.

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shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

[ARTICLE XIV.]¹

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss of emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

¹ Proclaimed to be in force July 28, 1868.

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SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

[ARTICLE XV.]¹

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

¹ Proclaimed to be in force March 30, 1870.

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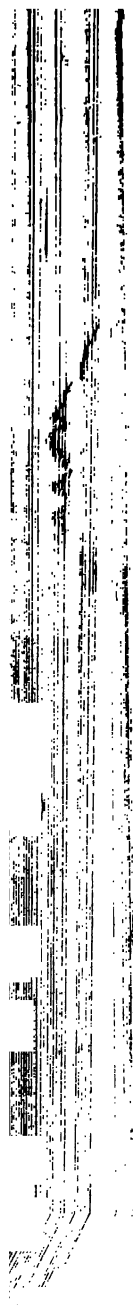
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